

109TH CONGRESS
2D SESSION

S. 3564

To provide for comprehensive border security and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2006

Mr. SANTORUM (for himself, Mr. TALENT, and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for comprehensive border security and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Border Security First Act of 2006”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Reference to the Immigration and Nationality Act.
- Sec. 3. Definitions.
- Sec. 4. Severability.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

- Sec. 101. Enforcement personnel.
- Sec. 102. Technological assets.
- Sec. 103. Infrastructure.
- Sec. 104. Border patrol checkpoints.
- Sec. 105. Ports of entry.
- Sec. 106. Construction of strategic border fencing and vehicle barriers.

Subtitle B—Border Security Plans, Strategies, and Reports

- Sec. 111. Surveillance plan.
- Sec. 112. National Strategy for Border Security.
- Sec. 113. Reports on improving the exchange of information on North American security.
- Sec. 114. Improving the security of Mexico's southern border.
- Sec. 115. Combating human smuggling.
- Sec. 116. Deaths at United States-Mexico border.

Subtitle C—Other Border Security Initiatives

- Sec. 121. Biometric data enhancements.
- Sec. 122. Secure communication.
- Sec. 123. Border patrol training capacity review.
- Sec. 124. US-VISIT system.
- Sec. 125. Document fraud detection.
- Sec. 126. Improved document integrity.
- Sec. 127. Cancellation of visas.
- Sec. 128. Biometric entry-exit system.
- Sec. 129. Border study.
- Sec. 130. Secure Border Initiative financial accountability.
- Sec. 131. Mandatory detention for aliens apprehended at or between ports of entry.
- Sec. 132. Evasion of inspection or violation of arrival, reporting, entry, or clearance requirements.
- Sec. 133. Temporary National Guard support for securing the southern land border of the United States.
- Sec. 134. Report on incentives to encourage certain members and former Members of the Armed Forces to serve in the Bureau of Customs and Border Protection.

Subtitle D—Border Tunnel Prevention Act

- Sec. 141. Short title.
- Sec. 142. Construction of border tunnel or passage.
- Sec. 143. Directive to the United States Sentencing Commission.

Subtitle E—Rapid Response Measures

- Sec. 151. Deployment of border patrol agents.
- Sec. 152. Border patrol major assets.
- Sec. 153. Electronic equipment.
- Sec. 154. Personal equipment.
- Sec. 155. Authorization of appropriations.

TITLE II—BORDER LAW ENFORCEMENT RELIEF

Subtitle A—Border Law Enforcement Relief Act

- Sec. 201. Short title.
- Sec. 202. Findings.
- Sec. 203. Border relief grant program.
- Sec. 204. Enforcement of Federal immigration law.

Subtitle B—Additional Law Enforcement Relief

- Sec. 211. State criminal alien assistance program.
- Sec. 212. Transportation and processing of illegal aliens apprehended by State and local law enforcement officers.
- Sec. 213. Expedited removal of criminal aliens.
- Sec. 214. Increase of Federal detention space and the utilization of facilities identified for closure as a result of the Defense Base Closure Realignment Act of 1990.
- Sec. 215. Northern Border Prosecution Initiative.
- Sec. 216. Southwest Border Prosecution Initiative.
- Sec. 217. Law enforcement authority of States and political subdivisions and transfer of aliens to Federal custody.

TITLE III—BORDER INFRASTRUCTURE AND TECHNOLOGY MODERNIZATION

Subtitle A—Border Infrastructure and Technology Modernization Act

- Sec. 301. Short title.
- Sec. 302. Definitions.
- Sec. 303. Port of Entry Infrastructure Assessment Study.
- Sec. 304. National Land Border Security Plan.
- Sec. 305. Expansion of commerce security programs.
- Sec. 306. Port of entry technology demonstration program.
- Sec. 307. Authorization of appropriations.

Subtitle B—Additional Infrastructure Elements

- Sec. 311. Surveillance technologies programs.
- Sec. 312. Border security on certain Federal land.
- Sec. 313. Unmanned aerial vehicles.

1 **SEC. 2. REFERENCE TO THE IMMIGRATION AND NATION-** 2 **ALITY ACT.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Immigration and Nation-
8 ality Act (8 U.S.C. 1101 et seq.).

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) DEPARTMENT.—Except as otherwise pro-
4 vided, the term “Department” means the Depart-
5 ment of Homeland Security.

6 (2) SECRETARY.—Except as otherwise provided,
7 the term “Secretary” means the Secretary of Home-
8 land Security.

9 **SEC. 4. SEVERABILITY.**

10 If any provision of this Act, any amendment made
11 by this Act, or the application of such provision or amend-
12 ment to any person or circumstance is held to be invalid
13 for any reason, the remainder of this Act, the amendments
14 made by this Act, and the application of the provisions
15 of such to any other person or circumstance shall not be
16 affected by such holding.

17 **TITLE I—BORDER**

18 **ENFORCEMENT**

19 **Subtitle A—Assets for Controlling**
20 **United States Borders**

21 **SEC. 101. ENFORCEMENT PERSONNEL.**

22 (a) ADDITIONAL PERSONNEL.—

23 (1) PORT OF ENTRY INSPECTORS.—In each of
24 the fiscal years 2007 through 2011, the Secretary
25 shall, subject to the availability of appropriations, in-
26 crease by not less than 500 the number of positions

1 for full-time active duty port of entry inspectors and
2 provide appropriate training, equipment, and sup-
3 port to such additional inspectors.

4 (2) INVESTIGATIVE PERSONNEL.—

5 (A) IMMIGRATION AND CUSTOMS EN-
6 FORCEMENT INVESTIGATORS.—Section 5203 of
7 the Intelligence Reform and Terrorism Preven-
8 tion Act of 2004 (Public Law 108–458; 118
9 Stat. 3734) is amended by striking “800” and
10 inserting “1000”.

11 (B) ADDITIONAL PERSONNEL.—In addi-
12 tion to the positions authorized under section
13 5203 of the Intelligence Reform and Terrorism
14 Prevention Act of 2004, as amended by sub-
15 paragraph (A), during each of the fiscal years
16 2007 through 2011, the Secretary shall, subject
17 to the availability of appropriations, increase by
18 not less than 200 the number of positions for
19 personnel within the Department assigned to
20 investigate alien smuggling.

21 (3) DEPUTY UNITED STATES MARSHALS.—In
22 each of the fiscal years 2007 through 2011, the At-
23 torney General shall, subject to the availability of
24 appropriations, increase by not less than 50 the
25 number of positions for full-time active duty Deputy

1 United States Marshals that investigate criminal
2 matters related to immigration.

3 (4) RECRUITMENT OF FORMER MILITARY PER-
4 SONNEL.—

5 (A) IN GENERAL.—The Commissioner of
6 United States Customs and Border Protection,
7 in conjunction with the Secretary of Defense or
8 a designee of the Secretary of Defense, shall es-
9 tablish a program to actively recruit members
10 of the Army, Navy, Air Force, Marine Corps,
11 and Coast Guard who have elected to separate
12 from active duty.

13 (B) REPORT.—Not later than 180 days
14 after the date of the enactment of this Act, the
15 Commissioner shall submit a report on the im-
16 plementation of the recruitment program estab-
17 lished pursuant to subparagraph (A) to the
18 Committee on the Judiciary of the Senate and
19 the Committee on the Judiciary of the House of
20 Representatives.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) PORT OF ENTRY INSPECTORS.—There are
23 authorized to be appropriated to the Secretary such
24 sums as may be necessary for each of the fiscal

1 years 2007 through 2011 to carry out subsection
 2 (a)(1).

3 (2) DEPUTY UNITED STATES MARSHALS.—
 4 There are authorized to be appropriated to the At-
 5 torney General such sums as may be necessary for
 6 each of the fiscal years 2007 through 2011 to carry
 7 out subsection (a)(3).

8 (3) BORDER PATROL AGENTS.—Section 5202 of
 9 the Intelligence Reform and Terrorism Prevention
 10 Act of 2004 (118 Stat. 3734) is amended to read as
 11 follows:

12 **“SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL**
 13 **AGENTS.**

14 “(a) ANNUAL INCREASES.—The Secretary of Home-
 15 land Security shall, subject to the availability of appropria-
 16 tions for such purpose, increase the number of positions
 17 for full-time active-duty border patrol agents within the
 18 Department of Homeland Security (above the number of
 19 such positions for which funds were appropriated for the
 20 preceding fiscal year), by—

- 21 “(1) 2,000 in fiscal year 2006;
- 22 “(2) 2,400 in fiscal year 2007;
- 23 “(3) 2,400 in fiscal year 2008;
- 24 “(4) 2,400 in fiscal year 2009;
- 25 “(5) 2,400 in fiscal year 2010; and

1 “(6) 2,400 in fiscal year 2011.

2 “(b) NORTHERN BORDER.—In each of the fiscal
3 years 2006 through 2011, in addition to the border patrol
4 agents assigned along the northern border of the United
5 States during the previous fiscal year, the Secretary shall
6 assign a number of border patrol agents equal to not less
7 than 20 percent of the net increase in border patrol agents
8 during each such fiscal year.

9 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as may be
11 necessary for each of fiscal years 2007 through 2011 to
12 carry out this section.”.

13 **SEC. 102. TECHNOLOGICAL ASSETS.**

14 (a) ACQUISITION.—Subject to the availability of ap-
15 propriations, the Secretary shall procure additional un-
16 manned aerial vehicles, cameras, poles, sensors, and other
17 technologies necessary to achieve operational control of the
18 international borders of the United States and to establish
19 a security perimeter known as a “virtual fence” along such
20 international borders to provide a barrier to illegal immi-
21 gration.

22 (b) INCREASED AVAILABILITY OF EQUIPMENT.—The
23 Secretary and the Secretary of Defense shall develop and
24 implement a plan to use authorities provided to the Sec-
25 retary of Defense under chapter 18 of title 10, United

1 States Code, to increase the availability and use of Depart-
2 ment of Defense equipment, including unmanned aerial
3 vehicles, tethered aerostat radars, and other surveillance
4 equipment, to assist the Secretary in carrying out surveil-
5 lance activities conducted at or near the international land
6 borders of the United States to prevent illegal immigra-
7 tion.

8 (c) REPORT.—Not later than 6 months after the date
9 of enactment of this Act, the Secretary and the Secretary
10 of Defense shall submit to Congress a report that con-
11 tains—

12 (1) a description of the current use of Depart-
13 ment of Defense equipment to assist the Secretary
14 in carrying out surveillance of the international land
15 borders of the United States and assessment of the
16 risks to citizens of the United States and foreign
17 policy interests associated with the use of such
18 equipment;

19 (2) the plan developed under subsection (b) to
20 increase the use of Department of Defense equip-
21 ment to assist such surveillance activities; and

22 (3) a description of the types of equipment and
23 other support to be provided by the Secretary of De-
24 fense under such plan during the 1-year period be-
25 ginning on the date of the submission of the report.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary such
3 sums as may be necessary for each of the fiscal years 2007
4 through 2011 to carry out subsection (a).

5 (e) UNMANNED AERIAL VEHICLE PILOT PRO-
6 GRAM.—During the 1-year period beginning on the date
7 on which the report is submitted under subsection (c), the
8 Secretary shall conduct a pilot program to test unmanned
9 aerial vehicles for border surveillance along the inter-
10 national border between Canada and the United States.

11 (f) CONSTRUCTION.—Nothing in this section may be
12 construed as altering or amending the prohibition on the
13 use of any part of the Army or the Air Force as a posse
14 comitatus under section 1385 of title 18, United States
15 Code.

16 **SEC. 103. INFRASTRUCTURE.**

17 (a) CONSTRUCTION OF BORDER CONTROL FACILI-
18 TIES.—Subject to the availability of appropriations, the
19 Secretary shall construct all-weather roads and acquire
20 additional vehicle barriers and facilities necessary to
21 achieve operational control of the international borders of
22 the United States.

23 (b) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Secretary such

1 sums as may be necessary for each of the fiscal years 2007
2 through 2011 to carry out subsection (a).

3 **SEC. 104. BORDER PATROL CHECKPOINTS.**

4 The Secretary may maintain temporary or permanent
5 checkpoints on roadways in border patrol sectors that are
6 located in proximity to the international border between
7 the United States and Mexico.

8 **SEC. 105. PORTS OF ENTRY.**

9 The Secretary is authorized to—

10 (1) construct additional ports of entry along the
11 international land borders of the United States, at
12 locations to be determined by the Secretary; and

13 (2) make necessary improvements to the ports
14 of entry in existence on the date of the enactment
15 of this Act.

16 **SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENC-**
17 **ING AND VEHICLE BARRIERS.**

18 (a) TUCSON SECTOR.—The Secretary shall—

19 (1) replace all aged, deteriorating, or damaged
20 primary fencing in the Tucson Sector located proximi-
21 mate to population centers in Douglas, Nogales,
22 Naco, and Lukeville, Arizona with double- or triple-
23 layered fencing running parallel to the international
24 border between the United States and Mexico;

1 (2) extend the double- or triple-layered fencing
2 for a distance of not less than 2 miles beyond urban
3 areas, except that the double- or triple-layered fence
4 shall extend west of Naco, Arizona, for a distance of
5 10 miles; and

6 (3) construct not less than 150 miles of vehicle
7 barriers and all-weather roads in the Tucson Sector
8 running parallel to the international border between
9 the United States and Mexico in areas that are
10 known transit points for illegal cross-border traffic.

11 (b) YUMA SECTOR.—The Secretary shall—

12 (1) replace all aged, deteriorating, or damaged
13 primary fencing in the Yuma Sector located proximate to
14 population centers in Yuma, Somerton, and
15 San Luis, Arizona with double- or triple-layered
16 fencing running parallel to the international border
17 between the United States and Mexico;

18 (2) extend the double- or triple-layered fencing
19 for a distance of not less than 2 miles beyond urban
20 areas in the Yuma Sector; and

21 (3) construct not less than 50 miles of vehicle
22 barriers and all-weather roads in the Yuma Sector
23 running parallel to the international border between
24 the United States and Mexico in areas that are
25 known transit points for illegal cross-border traffic.

1 (c) OTHER HIGH TRAFFICKED AREAS.—The Sec-
2 retary shall construct not less than 370 miles of triple-
3 layered fencing which may include portions already con-
4 structed in San Diego Tucson and Yuma Sectors, and 500
5 miles of vehicle barriers in other areas along the southwest
6 border that the Secretary determines are areas that are
7 most often used by smugglers and illegal aliens attempting
8 to gain illegal entry into the United States.

9 (d) CONSTRUCTION DEADLINE.—The Secretary shall
10 immediately commence construction of the fencing, bar-
11 riers, and roads described in subsections (a), (b), and (c)
12 and shall complete such construction not later than 2
13 years after the date of the enactment of this Act.

14 (e) REPORT.—Not later than 1 year after the date
15 of the enactment of this Act, the Secretary shall submit
16 a report to the Committee on the Judiciary of the Senate
17 and the Committee on the Judiciary of the House of Rep-
18 resentatives that describes the progress that has been
19 made in constructing the fencing, barriers, and roads de-
20 scribed in subsections (a), (b), and (c).

21 (f) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as may be
23 necessary to carry out this section.

1 **Subtitle B—Border Security Plans,**
2 **Strategies, and Reports**

3 **SEC. 111. SURVEILLANCE PLAN.**

4 (a) REQUIREMENT FOR PLAN.—The Secretary shall
5 develop a comprehensive plan for the systematic surveil-
6 lance of the international land and maritime borders of
7 the United States.

8 (b) CONTENT.—The plan required by subsection (a)
9 shall include the following:

10 (1) An assessment of existing technologies em-
11 ployed on the international land and maritime bor-
12 ders of the United States.

13 (2) A description of the compatibility of new
14 surveillance technologies with surveillance tech-
15 nologies in use by the Secretary on the date of the
16 enactment of this Act.

17 (3) A description of how the Commissioner of
18 the United States Customs and Border Protection of
19 the Department is working, or is expected to work,
20 with the Under Secretary for Science and Tech-
21 nology of the Department to identify and test sur-
22 veillance technology.

23 (4) A description of the specific surveillance
24 technology to be deployed.

1 (5) Identification of any obstacles that may im-
2 pede such deployment.

3 (6) A detailed estimate of all costs associated
4 with such deployment and with continued mainte-
5 nance of such technologies.

6 (7) A description of how the Secretary is work-
7 ing with the Administrator of the Federal Aviation
8 Administration on safety and airspace control issues
9 associated with the use of unmanned aerial vehicles.

10 (c) SUBMISSION TO CONGRESS.—Not later than 6
11 months after the date of the enactment of this Act, the
12 Secretary shall submit to Congress the plan required by
13 this section.

14 **SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.**

15 (a) REQUIREMENT FOR STRATEGY.—The Secretary,
16 in consultation with the heads of other appropriate Fed-
17 eral agencies, shall develop a National Strategy for Border
18 Security that describes actions to be carried out to achieve
19 operational control over all ports of entry into the United
20 States and the international land and maritime borders
21 of the United States.

22 (b) CONTENT.—The National Strategy for Border
23 Security shall include the following:

1 (1) The implementation schedule for the com-
2 prehensive plan for systematic surveillance described
3 in section 111.

4 (2) An assessment of the threat posed by ter-
5 rorists and terrorist groups that may try to infiltrate
6 the United States at locations along the inter-
7 national land and maritime borders of the United
8 States.

9 (3) A risk assessment for all United States
10 ports of entry and all portions of the international
11 land and maritime borders of the United States that
12 includes a description of activities being under-
13 taken—

14 (A) to prevent the entry of terrorists, other
15 unlawful aliens, instruments of terrorism, nar-
16 cotics, and other contraband into the United
17 States; and

18 (B) to protect critical infrastructure at or
19 near such ports of entry or borders.

20 (4) An assessment of the legal requirements
21 that prevent achieving and maintaining operational
22 control over the entire international land and mari-
23 time borders of the United States.

24 (5) An assessment of the most appropriate,
25 practical, and cost-effective means of defending the

1 international land and maritime borders of the
2 United States against threats to security and illegal
3 transit, including intelligence capacities, technology,
4 equipment, personnel, and training needed to ad-
5 dress security vulnerabilities.

6 (6) An assessment of staffing needs for all bor-
7 der security functions, taking into account threat
8 and vulnerability information pertaining to the bor-
9 ders and the impact of new security programs, poli-
10 cies, and technologies.

11 (7) A description of the border security roles
12 and missions of Federal, State, regional, local, and
13 tribal authorities, and recommendations regarding
14 actions the Secretary can carry out to improve co-
15 ordination with such authorities to enable border se-
16 curity and enforcement activities to be carried out in
17 a more efficient and effective manner.

18 (8) An assessment of existing efforts and tech-
19 nologies used for border security and the effect of
20 the use of such efforts and technologies on civil
21 rights, personal property rights, privacy rights, and
22 civil liberties, including an assessment of efforts to
23 take into account asylum seekers, trafficking vic-
24 tims, unaccompanied minor aliens, and other vulner-
25 able populations.

1 (9) A prioritized list of research and develop-
2 ment objectives to enhance the security of the inter-
3 national land and maritime borders of the United
4 States.

5 (10) A description of ways to ensure that the
6 free flow of travel and commerce is not diminished
7 by efforts, activities, and programs aimed at secur-
8 ing the international land and maritime borders of
9 the United States.

10 (11) An assessment of additional detention fa-
11 cilities and beds that are needed to detain unlawful
12 aliens apprehended at United States ports of entry
13 or along the international land borders of the United
14 States.

15 (12) A description of the performance metrics
16 to be used to ensure accountability by the bureaus
17 of the Department in implementing such Strategy.

18 (13) A schedule for the implementation of the
19 security measures described in such Strategy, includ-
20 ing a prioritization of security measures, realistic
21 deadlines for addressing the security and enforce-
22 ment needs, an estimate of the resources needed to
23 carry out such measures, and a description of how
24 such resources should be allocated.

1 (c) CONSULTATION.—In developing the National
2 Strategy for Border Security, the Secretary shall consult
3 with representatives of—

4 (1) State, local, and tribal authorities with re-
5 sponsibility for locations along the international land
6 and maritime borders of the United States; and

7 (2) appropriate private sector entities, non-
8 governmental organizations, and affected commu-
9 nities that have expertise in areas related to border
10 security.

11 (d) COORDINATION.—The National Strategy for Bor-
12 der Security shall be consistent with the National Strategy
13 for Maritime Security developed pursuant to Homeland
14 Security Presidential Directive 13, dated December 21,
15 2004.

16 (e) SUBMISSION TO CONGRESS.—

17 (1) STRATEGY.—Not later than 1 year after the
18 date of the enactment of this Act, the Secretary
19 shall submit to Congress the National Strategy for
20 Border Security.

21 (2) UPDATES.—The Secretary shall submit to
22 Congress any update of such Strategy that the Sec-
23 retary determines is necessary, not later than 30
24 days after such update is developed.

1 (f) IMMEDIATE ACTION.—Nothing in this section or
 2 section 111 may be construed to relieve the Secretary of
 3 the responsibility to take all actions necessary and appro-
 4 priate to achieve and maintain operational control over the
 5 entire international land and maritime borders of the
 6 United States.

7 **SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF IN-**
 8 **FORMATION ON NORTH AMERICAN SECU-**
 9 **RITY.**

10 (a) REQUIREMENT FOR REPORTS.—Not later than 1
 11 year after the date of the enactment of this Act, and annu-
 12 ally thereafter, the Secretary of State, in coordination with
 13 the Secretary and the heads of other appropriate Federal
 14 agencies, shall submit to Congress a report on improving
 15 the exchange of information related to the security of
 16 North America.

17 (b) CONTENTS.—Each report submitted under sub-
 18 section (a) shall contain a description of the following:

19 (1) SECURITY CLEARANCES AND DOCUMENT IN-
 20 TEGRITY.—The progress made toward the develop-
 21 ment of common enrollment, security, technical, and
 22 biometric standards for the issuance, authentication,
 23 validation, and repudiation of secure documents, in-
 24 cluding—

1 (A) technical and biometric standards
2 based on best practices and consistent with
3 international standards for the issuance, au-
4 thentication, validation, and repudiation of trav-
5 el documents, including—

6 (i) passports;

7 (ii) visas; and

8 (iii) permanent resident cards;

9 (B) working with Canada and Mexico to
10 encourage foreign governments to enact laws to
11 combat alien smuggling and trafficking, and
12 laws to forbid the use and manufacture of
13 fraudulent travel documents and to promote in-
14 formation sharing;

15 (C) applying the necessary pressures and
16 support to ensure that other countries meet
17 proper travel document standards and are com-
18 mitted to travel document verification before
19 the citizens of such countries travel internation-
20 ally, including travel by such citizens to the
21 United States; and

22 (D) providing technical assistance for the
23 development and maintenance of a national
24 database built upon identified best practices for

1 biometrics associated with visa and travel docu-
2 ments.

3 (2) IMMIGRATION AND VISA MANAGEMENT.—

4 The progress of efforts to share information regard-
5 ing high-risk individuals who may attempt to enter
6 Canada, Mexico, or the United States, including the
7 progress made—

8 (A) in implementing the Statement of Mu-
9 tual Understanding on Information Sharing,
10 signed by Canada and the United States in
11 February 2003; and

12 (B) in identifying trends related to immi-
13 gration fraud, including asylum and document
14 fraud, and to analyze such trends.

15 (3) VISA POLICY COORDINATION AND IMMIGRA-
16 TION SECURITY.—The progress made by Canada,
17 Mexico, and the United States to enhance the secu-
18 rity of North America by cooperating on visa policy
19 and identifying best practices regarding immigration
20 security, including the progress made—

21 (A) in enhancing consultation among offi-
22 cials who issue visas at the consulates or em-
23 bassies of Canada, Mexico, or the United States
24 throughout the world to share information,
25 trends, and best practices on visa flows;

1 (B) in comparing the procedures and poli-
2 cies of Canada and the United States related to
3 visitor visa processing, including—

- 4 (i) application process;
5 (ii) interview policy;
6 (iii) general screening procedures;
7 (iv) visa validity;
8 (v) quality control measures; and
9 (vi) access to appeal or review;

10 (C) in exploring methods for Canada, Mex-
11 ico, and the United States to waive visa re-
12 quirements for nationals and citizens of the
13 same foreign countries;

14 (D) in providing technical assistance for
15 the development and maintenance of a national
16 database built upon identified best practices for
17 biometrics associated with immigration viola-
18 tors;

19 (E) in developing and implementing an im-
20 migration security strategy for North America
21 that works toward the development of a com-
22 mon security perimeter by enhancing technical
23 assistance for programs and systems to support
24 advanced automated reporting and risk tar-
25 geting of international passengers;

1 (F) in sharing information on lost and sto-
2 len passports on a real-time basis among immi-
3 gration or law enforcement officials of Canada,
4 Mexico, and the United States; and

5 (G) in collecting 10 fingerprints from each
6 individual who applies for a visa.

7 (4) NORTH AMERICAN VISITOR OVERSTAY PRO-
8 GRAM.—The progress made by Canada and the
9 United States in implementing parallel entry-exit
10 tracking systems that, while respecting the privacy
11 laws of both countries, share information regarding
12 third country nationals who have overstayed their
13 period of authorized admission in either Canada or
14 the United States.

15 (5) TERRORIST WATCH LISTS.—The progress
16 made in enhancing the capacity of the United States
17 to combat terrorism through the coordination of
18 counterterrorism efforts, including the progress
19 made—

20 (A) in developing and implementing bilat-
21 eral agreements between Canada and the
22 United States and between Mexico and the
23 United States to govern the sharing of terrorist
24 watch list data and to comprehensively enu-

merate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

1 (C) in determining the feasibility of formu-
2 lating a firearms trafficking action plan be-
3 tween Mexico and the United States;

4 (D) in developing a joint threat assessment
5 on organized crime between Canada and the
6 United States;

7 (E) in determining the feasibility of formu-
8 lating a joint threat assessment on organized
9 crime between Mexico and the United States;

10 (F) in developing mechanisms to exchange
11 information on findings, seizures, and capture
12 of individuals transporting undeclared currency;
13 and

14 (G) in developing and implementing a plan
15 to combat the transnational threat of illegal
16 drug trafficking.

17 (7) LAW ENFORCEMENT COOPERATION.—The
18 progress made in enhancing law enforcement co-
19 operation among Canada, Mexico, and the United
20 States through enhanced technical assistance for the
21 development and maintenance of a national database
22 built upon identified best practices for biometrics as-
23 sociated with known and suspected criminals or ter-
24 rorists, including exploring the formation of law en-
25 forcement teams that include personnel from the

1 United States and Mexico, and appropriate proce-
2 dures for such teams.

3 **SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTH-**
4 **ERN BORDER.**

5 (a) TECHNICAL ASSISTANCE.—The Secretary of
6 State, in coordination with the Secretary, shall work to
7 cooperate with the head of Foreign Affairs Canada and
8 the appropriate officials of the Government of Mexico to
9 establish a program—

10 (1) to assess the specific needs of Guatemala
11 and Belize in maintaining the security of the inter-
12 national borders of such countries;

13 (2) to use the assessment made under para-
14 graph (1) to determine the financial and technical
15 support needed by Guatemala and Belize from Can-
16 ada, Mexico, and the United States to meet such
17 needs;

18 (3) to provide technical assistance to Guatemala
19 and Belize to promote issuance of secure passports
20 and travel documents by such countries; and

21 (4) to encourage Guatemala and Belize—

22 (A) to control alien smuggling and traf-
23 ficking;

24 (B) to prevent the use and manufacture of
25 fraudulent travel documents; and

1 (C) to share relevant information with
2 Mexico, Canada, and the United States.

3 (b) BORDER SECURITY FOR BELIZE, GUATEMALA,
4 AND MEXICO.—The Secretary, in consultation with the
5 Secretary of State, shall work to cooperate—

6 (1) with the appropriate officials of the Govern-
7 ment of Guatemala and the Government of Belize to
8 provide law enforcement assistance to Guatemala
9 and Belize that specifically addresses immigration
10 issues to increase the ability of the Government of
11 Guatemala to dismantle human smuggling organiza-
12 tions and gain additional control over the inter-
13 national border between Guatemala and Belize; and

14 (2) with the appropriate officials of the Govern-
15 ment of Belize, the Government of Guatemala, the
16 Government of Mexico, and the governments of
17 neighboring contiguous countries to establish a pro-
18 gram to provide needed equipment, technical assist-
19 ance, and vehicles to manage, regulate, and patrol
20 the international borders between Mexico and Guate-
21 mala and between Mexico and Belize.

22 (c) TRACKING CENTRAL AMERICAN GANGS.—The
23 Secretary of State, in coordination with the Secretary and
24 the Director of the Federal Bureau of Investigation, shall
25 work to cooperate with the appropriate officials of the

1 Government of Mexico, the Government of Guatemala, the
2 Government of Belize, and the governments of other Cen-
3 tral American countries—

4 (1) to assess the direct and indirect impact on
5 the United States and Central America of deporting
6 violent criminal aliens;

7 (2) to establish a program and database to
8 track individuals involved in Central American gang
9 activities;

10 (3) to develop a mechanism that is acceptable
11 to the governments of Belize, Guatemala, Mexico,
12 the United States, and other appropriate countries
13 to notify such a government if an individual sus-
14 pected of gang activity will be deported to that coun-
15 try prior to the deportation and to provide support
16 for the reintegration of such deportees into that
17 country; and

18 (4) to develop an agreement to share all rel-
19 evant information related to individuals connected
20 with Central American gangs.

21 (d) LIMITATIONS ON ASSISTANCE.—Any funds made
22 available to carry out this section shall be subject to the
23 limitations contained in section 551 of the Foreign Oper-
24 ations, Export Financing, and Related Programs Appro-

1 priations Act of 2006 (Public Law 109–102; 119 Stat.
2 2218).

3 **SEC. 115. COMBATING HUMAN SMUGGLING.**

4 (a) REQUIREMENT FOR PLAN.—The Secretary shall
5 develop and implement a plan to improve coordination be-
6 tween the Bureau of Immigration and Customs Enforce-
7 ment and the Bureau of Customs and Border Protection
8 of the Department and any other Federal, State, local,
9 or tribal authorities, as determined appropriate by the
10 Secretary, to improve coordination efforts to combat
11 human smuggling.

12 (b) CONTENT.—In developing the plan required by
13 subsection (a), the Secretary shall consider—

14 (1) the interoperability of databases utilized to
15 prevent human smuggling;

16 (2) adequate and effective personnel training;

17 (3) methods and programs to effectively target
18 networks that engage in such smuggling;

19 (4) effective utilization of—

20 (A) visas for victims of trafficking and
21 other crimes; and

22 (B) investigatory techniques, equipment,
23 and procedures that prevent, detect, and pros-
24 ecute international money laundering and other
25 operations that are utilized in smuggling;

1 (5) joint measures with the Secretary of State
2 to enhance intelligence sharing and cooperation with
3 foreign governments whose citizens are preyed on by
4 human smugglers; and

5 (6) other measures that the Secretary considers
6 appropriate to combat human smuggling.

7 (c) REPORT.—Not later than 1 year after imple-
8 menting the plan described in subsection (a), the Sec-
9 retary shall submit to Congress a report on such plan, in-
10 cluding any recommendations for legislative action to im-
11 prove efforts to combating human smuggling.

12 (d) SAVINGS PROVISION.—Nothing in this section
13 may be construed to provide additional authority to any
14 State or local entity to enforce Federal immigration laws.

15 **SEC. 116. DEATHS AT UNITED STATES-MEXICO BORDER.**

16 (a) COLLECTION OF STATISTICS.—The Commis-
17 sioner of the Bureau of Customs and Border Protection
18 shall collect statistics relating to deaths occurring at the
19 border between the United States and Mexico, including—

20 (1) the causes of the deaths; and

21 (2) the total number of deaths.

22 (b) REPORT.—Not later than 1 year after the date
23 of enactment of this Act, and annually thereafter, the
24 Commissioner of the Bureau of Customs and Border Pro-
25 tection shall submit to the Secretary a report that—

1 (1) analyzes trends with respect to the statistics
2 collected under subsection (a) during the preceding
3 year; and

4 (2) recommends actions to reduce the deaths
5 described in subsection (a).

6 **Subtitle C—Other Border Security**
7 **Initiatives**

8 **SEC. 121. BIOMETRIC DATA ENHANCEMENTS.**

9 Not later than October 1, 2007, the Secretary shall—

10 (1) in consultation with the Attorney General,
11 enhance connectivity between the Automated Bio-
12 metric Fingerprint Identification System (IDENT)
13 of the Department and the Integrated Automated
14 Fingerprint Identification System (IAFIS) of the
15 Federal Bureau of Investigation to ensure more ex-
16 peditious data searches; and

17 (2) in consultation with the Secretary of State,
18 collect all fingerprints from each alien required to
19 provide fingerprints during the alien’s initial enroll-
20 ment in the integrated entry and exit data system
21 described in section 110 of the Illegal Immigration
22 Reform and Immigrant Responsibility Act of 1996
23 (8 U.S.C. 1365a).

1 **SEC. 122. SECURE COMMUNICATION.**

2 The Secretary shall, as expeditiously as practicable,
3 develop and implement a plan to improve the use of sat-
4 ellite communications and other technologies to ensure
5 clear and secure 2-way communication capabilities—

6 (1) among all border patrol agents conducting
7 operations between ports of entry;

8 (2) between border patrol agents and their re-
9 spective border patrol stations;

10 (3) between border patrol agents and residents
11 in remote areas along the international land borders
12 of the United States; and

13 (4) between all appropriate border security
14 agencies of the Department and State, local, and
15 tribal law enforcement agencies.

16 **SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.**

17 (a) IN GENERAL.—The Comptroller General of the
18 United States shall conduct a review of the basic training
19 provided to border patrol agents by the Secretary to en-
20 sure that such training is provided as efficiently and cost-
21 effectively as possible.

22 (b) COMPONENTS OF REVIEW.—The review under
23 subsection (a) shall include the following components:

24 (1) An evaluation of the length and content of
25 the basic training curriculum provided to new border
26 patrol agents by the Federal Law Enforcement

1 Training Center, including a description of how such
2 curriculum has changed since September 11, 2001,
3 and an evaluation of language and cultural diversity
4 training programs provided within such curriculum.

5 (2) A review and a detailed breakdown of the
6 costs incurred by the Bureau of Customs and Bor-
7 der Protection and the Federal Law Enforcement
8 Training Center to train 1 new border patrol agent.

9 (3) A comparison, based on the review and
10 breakdown under paragraph (2), of the costs, effec-
11 tiveness, scope, and quality, including geographic
12 characteristics, with other similar training programs
13 provided by State and local agencies, nonprofit orga-
14 nizations, universities, and the private sector.

15 (4) An evaluation of whether utilizing com-
16 parable non-Federal training programs, proficiency
17 testing, and long-distance learning programs may af-
18 fect—

19 (A) the cost-effectiveness of increasing the
20 number of border patrol agents trained per
21 year;

22 (B) the per agent costs of basic training;
23 and

1 (C) the scope and quality of basic training
2 needed to fulfill the mission and duties of a bor-
3 der patrol agent.

4 **SEC. 124. US-VISIT SYSTEM.**

5 Not later than 6 months after the date of the enact-
6 ment of this Act, the Secretary, in consultation with the
7 heads of other appropriate Federal agencies, shall submit
8 to Congress a schedule for—

9 (1) equipping all land border ports of entry of
10 the United States with the U.S.-Visitor and Immig-
11 rant Status Indicator Technology (US-VISIT) sys-
12 tem implemented under section 110 of the Illegal
13 Immigration Reform and Immigrant Responsibility
14 Act of 1996 (8 U.S.C. 1365a);

15 (2) developing and deploying at such ports of
16 entry the exit component of the US-VISIT system;
17 and

18 (3) making interoperable all immigration
19 screening systems operated by the Secretary.

20 **SEC. 125. DOCUMENT FRAUD DETECTION.**

21 (a) TRAINING.—Subject to the availability of appro-
22 priations, the Secretary shall provide all Customs and
23 Border Protection officers with training in identifying and
24 detecting fraudulent travel documents. Such training shall
25 be developed in consultation with the head of the Forensic

1 Document Laboratory of the Bureau of Immigration and
2 Customs Enforcement.

3 (b) FORENSIC DOCUMENT LABORATORY.—The Sec-
4 retary shall provide all Customs and Border Protection of-
5 ficers with access to the Forensic Document Laboratory.

6 (c) ASSESSMENT.—

7 (1) REQUIREMENT FOR ASSESSMENT.—The In-
8 spector General of the Department shall conduct an
9 independent assessment of the accuracy and reli-
10 ability of the Forensic Document Laboratory.

11 (2) REPORT TO CONGRESS.—Not later than 6
12 months after the date of the enactment of this Act,
13 the Inspector General shall submit to Congress the
14 findings of the assessment required by paragraph
15 (1).

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary such
18 sums as may be necessary for each of fiscal years 2007
19 through 2011 to carry out this section.

20 **SEC. 126. IMPROVED DOCUMENT INTEGRITY.**

21 (a) IN GENERAL.—Section 303 of the Enhanced Bor-
22 der Security and Visa Entry Reform Act of 2002 (8
23 U.S.C. 1732) is amended—

1 (1) by striking “Attorney General” each place
 2 it appears and inserting “Secretary of Homeland Se-
 3 curity”;

4 (2) in the heading, by striking “**ENTRY AND**
 5 **EXIT DOCUMENTS**” and inserting “**TRAVEL AND**
 6 **ENTRY DOCUMENTS AND EVIDENCE OF STA-**
 7 **TUS**”;

8 (3) in subsection (b)(1)—

9 (A) by striking “Not later than October
 10 26, 2004, the” and inserting “The”; and

11 (B) by striking “visas and” both places it
 12 appears and inserting “visas, evidence of status,
 13 and”;

14 (4) by redesignating subsection (d) as sub-
 15 section (e); and

16 (5) by inserting after subsection (c) the fol-
 17 lowing:

18 “(d) **OTHER DOCUMENTS.**—Not later than October
 19 26, 2007, every document, other than an interim docu-
 20 ment, issued by the Secretary of Homeland Security,
 21 which may be used as evidence of an alien’s status as an
 22 immigrant, nonimmigrant, parolee, asylee, or refugee,
 23 shall be machine-readable and tamper-resistant, and shall
 24 incorporate a biometric identifier to allow the Secretary

1 of Homeland Security to verify electronically the identity
2 and status of the alien.”.

3 **SEC. 127. CANCELLATION OF VISAS.**

4 Section 222(g) (8 U.S.C. 1202(g)) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “Attorney General” and in-
7 serting “Secretary of Homeland Security”; and

8 (B) by inserting “and any other non-
9 immigrant visa issued by the United States that
10 is in the possession of the alien” after “such
11 visa”; and

12 (2) in paragraph (2)(A), by striking “(other
13 than the visa described in paragraph (1)) issued in
14 a consular office located in the country of the alien’s
15 nationality” and inserting “(other than a visa de-
16 scribed in paragraph (1)) issued in a consular office
17 located in the country of the alien’s nationality or
18 foreign residence”.

19 **SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.**

20 (a) COLLECTION OF BIOMETRIC DATA FROM ALIENS
21 DEPARTING THE UNITED STATES.—Section 215 (8
22 U.S.C. 1185) is amended—

23 (1) by redesignating subsection (c) as sub-
24 section (g);

1 (2) by moving subsection (g), as redesignated
2 by paragraph (1), to the end; and

3 (3) by inserting after subsection (b) the fol-
4 lowing:

5 “(c) The Secretary of Homeland Security is author-
6 ized to require aliens departing the United States to pro-
7 vide biometric data and other information relating to their
8 immigration status.”.

9 (b) INSPECTION OF APPLICANTS FOR ADMISSION.—
10 Section 235(d) (8 U.S.C. 1225(d)) is amended by adding
11 at the end the following:

12 “(5) AUTHORITY TO COLLECT BIOMETRIC
13 DATA.—In conducting inspections under subsection
14 (b), immigration officers are authorized to collect bi-
15 ometric data from—

16 “(A) any applicant for admission or alien
17 seeking to transit through the United States; or

18 “(B) any lawful permanent resident who is
19 entering the United States and who is not re-
20 garded as seeking admission pursuant to sec-
21 tion 101(a)(13)(C).”.

22 (c) COLLECTION OF BIOMETRIC DATA FROM ALIEN
23 CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by
24 adding at the end the following:

1 “(d) An immigration officer is authorized to collect
2 biometric data from an alien crewman seeking permission
3 to land temporarily in the United States.”.

4 (d) GROUNDS OF INADMISSIBILITY.—Section 212 (8
5 U.S.C. 1182) is amended—

6 (1) in subsection (a)(7), by adding at the end
7 the following:

8 “(C) WITHHOLDERS OF BIOMETRIC
9 DATA.—Any alien who knowingly fails to com-
10 ply with a lawful request for biometric data
11 under section 215(c) or 235(d) is inadmis-
12 sible.”; and

13 (2) in subsection (d), by inserting after para-
14 graph (1) the following:

15 “(2) The Secretary of Homeland Security shall
16 determine whether a ground for inadmissibility ex-
17 ists with respect to an alien described in subpara-
18 graph (C) of subsection (a)(7) and may waive the
19 application of such subparagraph for an individual
20 alien or a class of aliens, at the discretion of the
21 Secretary.”.

22 (e) IMPLEMENTATION.—Section 7208 of the 9/11
23 Commission Implementation Act of 2004 (8 U.S.C.
24 1365b) is amended—

1 (1) in subsection (c), by adding at the end the
 2 following:

3 “(3) IMPLEMENTATION.—In fully implementing
 4 the automated biometric entry and exit data system
 5 under this section, the Secretary is not required to
 6 comply with the requirements of chapter 5 of title 5,
 7 United States Code (commonly referred to as the
 8 Administrative Procedure Act) or any other law re-
 9 lating to rulemaking, information collection, or pub-
 10 lication in the Federal Register.”; and

11 (2) in subsection (l)—

12 (A) by striking “There are authorized”
 13 and inserting the following:

14 “(1) IN GENERAL.—There are authorized”; and

15 (B) by adding at the end the following:

16 “(2) IMPLEMENTATION AT ALL LAND BORDER
 17 PORTS OF ENTRY.—There are authorized to be ap-
 18 propriated such sums as may be necessary for each
 19 of fiscal years 2007 and 2008 to implement the
 20 automated biometric entry and exit data system at
 21 all land border ports of entry.”.

22 **SEC. 129. BORDER STUDY.**

23 (a) SOUTHERN BORDER STUDY.—The Secretary, in
 24 consultation with the Attorney General, the Secretary of
 25 the Interior, the Secretary of Agriculture, the Secretary

1 of Defense, the Secretary of Commerce, and the Adminis-
 2 trator of the Environmental Protection Agency, shall con-
 3 duct a study on the construction of a system of physical
 4 barriers along the southern international land and mari-
 5 time border of the United States.

6 (b) REPORT.—Not later than 9 months after the date
 7 of the enactment of this Act, the Secretary shall submit
 8 to Congress a report on the study described in subsection
 9 (a).

10 **SEC. 130. SECURE BORDER INITIATIVE FINANCIAL AC-**
 11 **COUNTABILITY.**

12 (a) IN GENERAL.—The Inspector General of the De-
 13 partment shall review each contract action relating to the
 14 Secure Border Initiative having a value of more than
 15 \$20,000,000, to determine whether each such action fully
 16 complies with applicable cost requirements, performance
 17 objectives, program milestones, inclusion of small, minor-
 18 ity, and women-owned business, and time lines. The In-
 19 spector General shall complete a review under this sub-
 20 section with respect to each contract action—

21 (1) not later than 60 days after the date of the
 22 initiation of the action; and

23 (2) upon the conclusion of the performance of
 24 the contract.

25 (b) INSPECTOR GENERAL.—

1 (1) ACTION.—If the Inspector General becomes
2 aware of any improper conduct or wrongdoing in the
3 course of conducting a contract review under sub-
4 section (a), the Inspector General shall, as expedi-
5 tiously as practicable, refer information relating to
6 such improper conduct or wrongdoing to the Sec-
7 retary, or to another appropriate official of the De-
8 partment, who shall determine whether to tempo-
9 rarily suspend the contractor from further participa-
10 tion in the Secure Border Initiative.

11 (2) REPORT.—Upon the completion of each re-
12 view described in subsection (a), the Inspector Gen-
13 eral shall submit to the Secretary a report con-
14 taining the findings of the review, including findings
15 regarding—

16 (A) cost overruns;

17 (B) significant delays in contract execu-
18 tion;

19 (C) lack of rigorous departmental contract
20 management;

21 (D) insufficient departmental financial
22 oversight;

23 (E) bundling that limits the ability of
24 small businesses to compete; or

25 (F) other high-risk business practices.

1 (c) REPORTS BY THE SECRETARY.—

2 (1) IN GENERAL.—Not later than 30 days after
3 the receipt of each report required under subsection
4 (b)(2), the Secretary shall submit a report, to the
5 Committee on the Judiciary of the Senate and the
6 Committee on the Judiciary of the House of Rep-
7 resentatives, that describes—

8 (A) the findings of the report received
9 from the Inspector General; and

10 (B) the steps the Secretary has taken, or
11 plans to take, to address the problems identified
12 in such report.

13 (2) CONTRACTS WITH FOREIGN COMPANIES.—

14 Not later than 60 days after the initiation of each
15 contract action with a company whose headquarters
16 is not based in the United States, the Secretary
17 shall submit a report to the Committee on the Judi-
18 ciary of the Senate and the Committee on the Judi-
19 ciary of the House of Representatives, regarding the
20 Secure Border Initiative.

21 (d) REPORTS ON UNITED STATES PORTS.—Not later
22 than 30 days after receiving information regarding a pro-
23 posed purchase of a contract to manage the operations of
24 a United States port by a foreign entity, the Committee

1 on Foreign Investment in the United States shall submit
2 a report to Congress that describes—

3 (1) the proposed purchase;

4 (2) any security concerns related to the pro-
5 posed purchase; and

6 (3) the manner in which such security concerns
7 have been addressed.

8 (e) AUTHORIZATION OF APPROPRIATIONS.—In addi-
9 tion to amounts that are otherwise authorized to be appro-
10 priated to the Office of the Inspector General of the De-
11 partment, there are authorized to be appropriated to the
12 Office, to enable the Office to carry out this section—

13 (1) for fiscal year 2007, not less than 5 percent
14 of the overall budget of the Office for such fiscal
15 year;

16 (2) for fiscal year 2008, not less than 6 percent
17 of the overall budget of the Office for such fiscal
18 year; and

19 (3) for fiscal year 2009, not less than 7 percent
20 of the overall budget of the Office for such fiscal
21 year.

22 **SEC. 131. MANDATORY DETENTION FOR ALIENS APPRE-**
23 **HENDED AT OR BETWEEN PORTS OF ENTRY.**

24 (a) IN GENERAL.—Beginning on October 1, 2007, an
25 alien (other than a national of Mexico) who is attempting

1 to illegally enter the United States and who is appre-
2 hended at a United States port of entry or along the inter-
3 national land and maritime border of the United States
4 shall be detained until removed or a final decision granting
5 admission has been determined, unless the alien—

6 (1) is permitted to withdraw an application for
7 admission under section 235(a)(4) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1225(a)(4)) and
9 immediately departs from the United States pursu-
10 ant to such section; or

11 (2) is paroled into the United States by the
12 Secretary for urgent humanitarian reasons or sig-
13 nificant public benefit in accordance with section
14 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

15 (b) REQUIREMENTS DURING INTERIM PERIOD.—Be-
16 ginning 60 days after the date of the enactment of this
17 Act and before October 1, 2007, an alien described in sub-
18 section (a) may be released with a notice to appear only
19 if—

20 (1) the Secretary determines, after conducting
21 all appropriate background and security checks on
22 the alien, that the alien does not pose a national se-
23 curity risk; and

24 (2) the alien provides a bond of not less than
25 \$5,000.

1 (c) RULES OF CONSTRUCTION.—

2 (1) ASYLUM AND REMOVAL.—Nothing in this
3 section shall be construed as limiting the right of an
4 alien to apply for asylum or for relief or deferral of
5 removal based on a fear of persecution.

6 (2) TREATMENT OF CERTAIN ALIENS.—The
7 mandatory detention requirement in subsection (a)
8 does not apply to any alien who is a native or citizen
9 of a country in the Western Hemisphere with whose
10 government the United States does not have full dip-
11 lomatic relations.

12 (3) DISCRETION.—Nothing in this section shall
13 be construed as limiting the authority of the Sec-
14 retary, in the Secretary's sole unreviewable discre-
15 tion, to determine whether an alien described in
16 clause (ii) of section 235(b)(1)(B) of the Immigra-
17 tion and Nationality Act shall be detained or re-
18 leased after a finding of a credible fear of persecu-
19 tion (as defined in clause (v) of such section).

20 **SEC. 132. EVASION OF INSPECTION OR VIOLATION OF AR-**
21 **RIVAL, REPORTING, ENTRY, OR CLEARANCE**
22 **REQUIREMENTS.**

23 (a) IN GENERAL.—Chapter 27 of title 18, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

1 **“§ 555. Evasion of inspection or during violation of**
2 **arrival, reporting, entry, or clearance re-**
3 **quirements**

4 “(a) PROHIBITION.—A person shall be punished as
5 described in subsection (b) if such person attempts to
6 elude or eludes customs, immigration, or agriculture in-
7 spection or fails to stop at the command of an officer or
8 employee of the United States charged with enforcing the
9 immigration, customs, or other laws of the United States
10 at a port of entry or customs or immigration checkpoint.

11 “(b) PENALTIES.—A person who commits an offense
12 described in subsection (a) shall be—

13 “(1) fined under this title;

14 “(2)(A) imprisoned for not more than 3 years,
15 or both;

16 “(B) imprisoned for not more than 10 years, or
17 both, if in commission of this violation, attempts to
18 inflict or inflicts bodily injury (as defined in section
19 1365(g) of this title); or

20 “(C) imprisoned for any term of years or for
21 life, or both, if death results, and may be sentenced
22 to death; or

23 “(3) both fined and imprisoned under this sub-
24 section.

25 “(c) CONSPIRACY.—If 2 or more persons conspire to
26 commit an offense described in subsection (a), and 1 or

1 more of such persons do any act to effect the object of
 2 the conspiracy, each shall be punishable as a principal, ex-
 3 cept that the sentence of death may not be imposed.

4 “(d) PRIMA FACIE EVIDENCE.—For the purposes of
 5 seizure and forfeiture under applicable law, in the case of
 6 use of a vehicle or other conveyance in the commission
 7 of this offense, or in the case of disregarding or disobeying
 8 the lawful authority or command of any officer or em-
 9 ployee of the United States under section 111(b), such
 10 conduct shall constitute prima facie evidence of smuggling
 11 aliens or merchandise.”.

12 (b) CONFORMING AMENDMENT.—The table of sec-
 13 tions for chapter 27 of title 18, United States Code, is
 14 amended by adding at the end the following:

“555. Evasion of inspection or during violation of arrival, reporting, entry, or
 clearance requirements.”.

15 (c) FAILURE TO OBEY BORDER ENFORCEMENT OF-
 16 FICERS.—Section 111 of title 18, United States Code, is
 17 amended by inserting after subsection (b) the following:

18 “(c) FAILURE TO OBEY LAWFUL ORDERS OF BOR-
 19 DER ENFORCEMENT OFFICERS.—Whoever willfully dis-
 20 regards or disobeys the lawful authority or command of
 21 any officer or employee of the United States charged with
 22 enforcing the immigration, customs, or other laws of the
 23 United States while engaged in, or on account of, the per-

1 formance of official duties shall be fined under this title
2 or imprisoned for not more than 5 years, or both.”.

3 **SEC. 133. TEMPORARY NATIONAL GUARD SUPPORT FOR SE-**
4 **CURING THE SOUTHERN LAND BORDER OF**
5 **THE UNITED STATES.**

6 (a) AUTHORITY TO PROVIDE ASSISTANCE.—

7 (1) ANNUAL TRAINING DUTY.—With the ap-
8 proval of the Secretary of Defense, the Governor of
9 a State may order any units or personnel of the Na-
10 tional Guard of such State to perform annual train-
11 ing duty under section 502(a) of title 32, United
12 States Code, to carry out in any State along the
13 southern land border of the United States the activi-
14 ties authorized in subsection (b), for the purpose of
15 securing such border. Such duty shall not exceed 21
16 days in any year.

17 (2) OTHER SUPPORT.—With the approval of
18 the Secretary of Defense, the Governor of a State
19 may order any units or personnel of the National
20 Guard of such State to perform duty under section
21 502(f) of title 32, United States Code, to provide
22 command, control, and continuity of support for
23 units or personnel performing annual training duty
24 under paragraph (1).

1 (b) AUTHORIZED ACTIVITIES.—The activities author-
2 ized by this subsection are any of the following:

- 3 (1) Ground reconnaissance activities.
- 4 (2) Airborne reconnaissance activities.
- 5 (3) Logistical support.
- 6 (4) Provision of translation services and train-
7 ing.
- 8 (5) Administrative support services.
- 9 (6) Technical training services.
- 10 (7) Emergency medical assistance and services.
- 11 (8) Communications services.
- 12 (9) Rescue of aliens in peril.
- 13 (10) Construction of roadways, patrol roads,
14 fences, barriers, and other facilities to secure the
15 southern land border of the United States.
- 16 (11) Ground and air transportation.

17 (c) COOPERATIVE AGREEMENTS.—Units and per-
18 sonnel of the National Guard of a State may perform ac-
19 tivities in another State under subsection (a) only pursu-
20 ant to the terms of an emergency management assistance
21 compact or other cooperative arrangement entered into be-
22 tween Governors of such States for purposes of this sec-
23 tion, and only with the approval of the Secretary of De-
24 fense.

1 (d) COORDINATION OF ASSISTANCE.—The Secretary
 2 shall, in consultation with the Secretary of Defense and
 3 the Governors of the States concerned, coordinate the per-
 4 formance of activities under this section by units and per-
 5 sonnel of the National Guard.

6 (e) ANNUAL TRAINING.—Annual training duty per-
 7 formed by members of the National Guard under sub-
 8 section (a) shall be appropriate for the units and indi-
 9 vidual members concerned, taking into account the types
 10 of units and military occupational specialties of individual
 11 members performing such duty.

12 (f) DEFINITIONS.—In this section:

13 (1) GOVERNOR OF A STATE.—The term “Gov-
 14 ernor of a State” means, in the case of the District
 15 of Columbia, the Commanding General of the Na-
 16 tional Guard of the District of Columbia.

17 (2) STATE.—The term “State” means each of
 18 the several States, the District of Columbia, the
 19 Commonwealth of Puerto Rico, Guam, and the Vir-
 20 gin Islands.

21 (3) STATE ALONG THE SOUTHERN BORDER OF
 22 THE UNITED STATES.—The term “State along the
 23 southern border of the United States” means each
 24 of the following:

25 (A) The State of Arizona.

1 (B) The State of California.

2 (C) The State of New Mexico.

3 (D) The State of Texas.

4 (g) DURATION OF AUTHORITY.—The authority of
5 this section shall expire on January 1, 2009.

6 (h) PROHIBITION ON DIRECT PARTICIPATION IN LAW
7 ENFORCEMENT.—Activities carried out under the author-
8 ity of this section shall not include the direct participation
9 of a member of the National Guard in a search, seizure,
10 arrest, or similar activity.

11 **SEC. 134. REPORT ON INCENTIVES TO ENCOURAGE CER-**
12 **TAIN MEMBERS AND FORMER MEMBERS OF**
13 **THE ARMED FORCES TO SERVE IN THE BU-**
14 **REAU OF CUSTOMS AND BORDER PROTEC-**
15 **TION.**

16 (a) REPORT REQUIRED.—Not later than 60 days
17 after the date of the enactment of this Act, the Secretary
18 and the Secretary of Defense shall jointly submit to the
19 appropriate committees of Congress a report assessing the
20 desirability and feasibility of offering incentives to covered
21 members and former members of the Armed Forces for
22 the purpose of encouraging such members to serve in the
23 Bureau of Customs and Border Protection.

24 (b) COVERED MEMBERS AND FORMER MEMBERS OF
25 THE ARMED FORCES.—For purposes of this section, cov-

1 ered members and former members of the Armed Forces
2 are the following:

3 (1) Members of the reserve components of the
4 Armed Forces.

5 (2) Former members of the Armed Forces with-
6 in 2 years of separation from service in the Armed
7 Forces.

8 (c) REQUIREMENTS AND LIMITATIONS.—

9 (1) NATURE OF INCENTIVES.—In considering
10 incentives for purposes of the report required by
11 subsection (a), the Secretaries shall consider such
12 incentives, whether monetary or otherwise and
13 whether or not authorized by current law or regula-
14 tions, as the Secretaries jointly consider appropriate.

15 (2) TARGETING OF INCENTIVES.—In assessing
16 any incentive for purposes of the report, the Secre-
17 taries shall give particular attention to the utility of
18 such incentive in—

19 (A) encouraging service in the Bureau of
20 Customs and Border Protection after service in
21 the Armed Forces by covered members and
22 former members of the Armed Forces who have
23 provided border patrol or border security assist-
24 ance to the Bureau as part of their duties as
25 members of the Armed Forces; and

1 (B) leveraging military training and expe-
2 rience by accelerating training, or allowing
3 credit to be applied to related areas of training,
4 required for service with the Bureau of Cus-
5 toms and Border Protection.

6 (3) PAYMENT.—In assessing incentives for pur-
7 poses of the report, the Secretaries shall assume
8 that any costs of such incentives shall be borne by
9 the Department.

10 (d) ELEMENTS.—The report required by subsection
11 (a) shall include the following:

12 (1) A description of various monetary and non-
13 monetary incentives considered for purposes of the
14 report.

15 (2) An assessment of the desirability and feasi-
16 bility of utilizing any such incentive for the purpose
17 specified in subsection (a), including an assessment
18 of the particular utility of such incentive in encour-
19 aging service in the Bureau of Customs and Border
20 Protection after service in the Armed Forces by cov-
21 ered members and former members of the Armed
22 Forces described in subsection (c)(2).

23 (3) Any other matters that the Secretaries
24 jointly consider appropriate.

1 (e) APPROPRIATE COMMITTEES OF CONGRESS DE-
 2 FINED.—In this section, the term “appropriate commit-
 3 tees of Congress” means—

4 (1) the Committees on Armed Services, Home-
 5 land Security and Governmental Affairs, and Appro-
 6 priations of the Senate; and

7 (2) the Committees on Armed Services, Home-
 8 land Security, and Appropriations of the House of
 9 Representatives.

10 **Subtitle D—Border Tunnel** 11 **Prevention Act**

12 **SEC. 141. SHORT TITLE.**

13 This subtitle may be cited as the “Border Tunnel
 14 Prevention Act”.

15 **SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PAS-** 16 **SAGE.**

17 (a) IN GENERAL.—Chapter 27 of title 18, United
 18 States Code, as amended by section 132, is further amend-
 19 ed by adding at the end the following:

20 **“§ 556. Border tunnels and passages**

21 “(a) Any person who knowingly constructs or fi-
 22 nances the construction of a tunnel or subterranean pas-
 23 sage that crosses the international border between the
 24 United States and another country, other than a lawfully
 25 authorized tunnel or passage known to the Secretary of

1 Homeland Security and subject to inspection by the Bu-
 2 reau of Immigration and Customs Enforcement, shall be
 3 fined under this title and imprisoned for not more than
 4 20 years.

5 “(b) Any person who knows or recklessly disregards
 6 the construction or use of a tunnel or passage described
 7 in subsection (a) on land that the person owns or controls
 8 shall be fined under this title and imprisoned for not more
 9 than 10 years.

10 “(c) Any person who uses a tunnel or passage de-
 11 scribed in subsection (a) to unlawfully smuggle an alien,
 12 goods (in violation of section 545), controlled substances,
 13 weapons of mass destruction (including biological weap-
 14 ons), or a member of a terrorist organization (as defined
 15 in section 212(a)(3)(B)(vi) of the Immigration and Na-
 16 tionality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be sub-
 17 ject to a maximum term of imprisonment that is twice the
 18 maximum term of imprisonment that would have other-
 19 wise been applicable had the unlawful activity not made
 20 use of such a tunnel or passage.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
 22 for chapter 27 of title 18, United States Code, as amended
 23 by section 132, is further amended by adding at the end
 24 the following:

“Sec. 556. Border tunnels and passages.”.

1 (c) CRIMINAL FORFEITURE.—Section 982(a)(6) of
 2 title 18, United States Code, is amended by inserting
 3 “556,” before “1425,”.

4 **SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING**
 5 **COMMISSION.**

6 (a) IN GENERAL.—Pursuant to its authority under
 7 section 994 of title 28, United States Code, and in accord-
 8 ance with this section, the United States Sentencing Com-
 9 mission shall promulgate or amend sentencing guidelines
 10 to provide for increased penalties for persons convicted of
 11 offenses described in section 556 of title 18, United States
 12 Code, as added by section 142.

13 (b) REQUIREMENTS.—In carrying out this section,
 14 the United States Sentencing Commission shall—

15 (1) ensure that the sentencing guidelines, policy
 16 statements, and official commentary reflect the seri-
 17 ous nature of the offenses described in section 556
 18 of title 18, United States Code, and the need for ag-
 19 gressive and appropriate law enforcement action to
 20 prevent such offenses;

21 (2) provide adequate base offense levels for of-
 22 fenses under such section;

23 (3) account for any aggravating or mitigating
 24 circumstances that might justify exceptions, includ-
 25 ing—

1 (A) the use of a tunnel or passage de-
 2 scribed in subsection (a) of such section to fa-
 3 cilitate other felonies; and

4 (B) the circumstances for which the sen-
 5 tencing guidelines currently provide applicable
 6 sentencing enhancements;

7 (4) ensure reasonable consistency with other
 8 relevant directives, other sentencing guidelines, and
 9 statutes;

10 (5) make any necessary and conforming
 11 changes to the sentencing guidelines and policy
 12 statements; and

13 (6) ensure that the sentencing guidelines ade-
 14 quately meet the purposes of sentencing set forth in
 15 section 3553(a)(2) of title 18, United States Code.

16 **Subtitle E—Rapid Response** 17 **Measures**

18 **SEC. 151. DEPLOYMENT OF BORDER PATROL AGENTS.**

19 (a) EMERGENCY DEPLOYMENT OF BORDER PATROL
 20 AGENTS.—

21 (1) IN GENERAL.—If the Governor of a State
 22 on an international border of the United States de-
 23 clares an international border security emergency
 24 and requests additional United States border patrol
 25 agents (referred to in this subtitle as “agents”) from

1 the Secretary, the Secretary, subject to paragraphs
2 (1) and (2), may provide the State with not more
3 than 1,000 additional agents for the purpose of pa-
4 trolling and defending the international border, in
5 order to prevent individuals from crossing the inter-
6 national border into the United States at any loca-
7 tion other than an authorized port of entry.

8 (2) CONSULTATION.—Upon receiving a request
9 for agents under paragraph (1), the Secretary, after
10 consultation with the President, shall grant such re-
11 quest to the extent that providing such agents will
12 not significantly impair the Department’s ability to
13 provide border security for any other State.

14 (3) COLLECTIVE BARGAINING.—Emergency de-
15 ployments under this subsection shall be made in ac-
16 cordance with all applicable collective bargaining
17 agreements and obligations.

18 (b) ELIMINATION OF FIXED DEPLOYMENT OF BOR-
19 DER PATROL AGENTS.—The Secretary shall ensure that
20 agents are not precluded from performing patrol duties
21 and apprehending violators of law, except in unusual cir-
22 cumstances if the temporary use of fixed deployment posi-
23 tions is necessary.

24 (c) INCREASE IN FULL-TIME BORDER PATROL
25 AGENTS.—Section 5202(a)(1) of the Intelligence Reform

1 and Terrorism Prevention Act of 2004 (118 Stat. 3734),
2 as amended by section 101(b)(2), is further amended by
3 striking “2,000” and inserting “3,000”.

4 **SEC. 152. BORDER PATROL MAJOR ASSETS.**

5 (a) CONTROL OF BORDER PATROL ASSETS.—The
6 United States Border Patrol shall have complete and ex-
7 clusive administrative and operational control over all the
8 assets utilized in carrying out its mission, including, air-
9 craft, watercraft, vehicles, detention space, transportation,
10 and all of the personnel associated with such assets.

11 (b) HELICOPTERS AND POWER BOATS.—

12 (1) HELICOPTERS.—The Secretary shall in-
13 crease, by not less than 100, the number of heli-
14 copters under the control of the United States Bor-
15 der Patrol. The Secretary shall ensure that appro-
16 priate types of helicopters are procured for the var-
17 ious missions being performed.

18 (2) POWER BOATS.—The Secretary shall in-
19 crease, by not less than 250, the number of power
20 boats under the control of the United States Border
21 Patrol. The Secretary shall ensure that the types of
22 power boats that are procured are appropriate for
23 both the waterways in which they are used and the
24 mission requirements.

25 (3) USE AND TRAINING.—The Secretary shall—

1 (A) establish an overall policy on how the
2 helicopters and power boats procured under this
3 subsection will be used; and

4 (B) implement training programs for the
5 agents who use such assets, including safe oper-
6 ating procedures and rescue operations.

7 (c) MOTOR VEHICLES.—

8 (1) QUANTITY.—The Secretary shall establish a
9 fleet of motor vehicles appropriate for use by the
10 United States Border Patrol that will permit a ratio
11 of not less than 1 police-type vehicle for every 3
12 agents. These police-type vehicles shall be replaced
13 not less than every 3 years. The Secretary shall en-
14 sure that there are sufficient numbers and types of
15 other motor vehicles to support the mission of the
16 United States Border Patrol.

17 (2) FEATURES.—All motor vehicles purchased
18 for the United States Border Patrol shall—

19 (A) be appropriate for the mission of the
20 United States Border Patrol; and

21 (B) have a panic button and a global posi-
22 tioning system device that is activated solely in
23 emergency situations to track the location of
24 agents in distress.

1 **SEC. 153. ELECTRONIC EQUIPMENT.**

2 (a) PORTABLE COMPUTERS.—The Secretary shall en-
3 sure that each police-type motor vehicle in the fleet of the
4 United States Border Patrol is equipped with a portable
5 computer with access to all necessary law enforcement
6 databases and otherwise suited to the unique operational
7 requirements of the United States Border Patrol.

8 (b) RADIO COMMUNICATIONS.—The Secretary shall
9 augment the existing radio communications system so that
10 all law enforcement personnel working in each area where
11 United States Border Patrol operations are conducted
12 have clear and encrypted 2-way radio communication ca-
13 pabilities at all times. Each portable communications de-
14 vice shall be equipped with a panic button and a global
15 positioning system device that is activated solely in emer-
16 gency situations to track the location of agents in distress.

17 (c) HAND-HELD GLOBAL POSITIONING SYSTEM DE-
18 VICES.—The Secretary shall ensure that each United
19 States Border Patrol agent is issued a state-of-the-art
20 hand-held global positioning system device for navigational
21 purposes.

22 (d) NIGHT VISION EQUIPMENT.—The Secretary shall
23 ensure that sufficient quantities of state-of-the-art night
24 vision equipment are procured and maintained to enable
25 each United States Border Patrol agent working during

1 the hours of darkness to be equipped with a portable night
2 vision device.

3 **SEC. 154. PERSONAL EQUIPMENT.**

4 (a) BODY ARMOR.—The Secretary shall ensure that
5 every agent is issued high-quality body armor that is ap-
6 propriate for the climate and risks faced by the agent.
7 Each agent shall be permitted to select from among a vari-
8 ety of approved brands and styles. Agents shall be strongly
9 encouraged, but not required, to wear such body armor
10 whenever practicable. All body armor shall be replaced not
11 less than every 5 years.

12 (b) WEAPONS.—The Secretary shall ensure that
13 agents are equipped with weapons that are reliable and
14 effective to protect themselves, their fellow agents, and in-
15 nocent third parties from the threats posed by armed
16 criminals. The Secretary shall ensure that the policies of
17 the Department authorize all agents to carry weapons that
18 are suited to the potential threats that they face.

19 (c) UNIFORMS.—The Secretary shall ensure that all
20 agents are provided with all necessary uniform items, in-
21 cluding outerwear suited to the climate, footwear, belts,
22 holsters, and personal protective equipment, at no cost to
23 such agents. Such items shall be replaced at no cost to
24 such agents as they become worn, unserviceable, or no
25 longer fit properly.

1 **SEC. 155. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Sec-
3 retary such sums as may be necessary for each of the fis-
4 cal years 2007 through 2011 to carry out this subtitle.

5 **TITLE II—BORDER LAW**
6 **ENFORCEMENT RELIEF**
7 **Subtitle A—Border Law**
8 **Enforcement Relief Act**

9 **SEC. 201. SHORT TITLE.**

10 This subtitle may be cited as the “Border Law En-
11 forcement Relief Act of 2006”.

12 **SEC. 202. FINDINGS.**

13 Congress finds the following:

14 (1) It is the obligation of the Federal Govern-
15 ment of the United States to adequately secure the
16 Nation’s borders and prevent the flow of undocu-
17 mented persons and illegal drugs into the United
18 States.

19 (2) Despite the fact that the United States
20 Border Patrol apprehends over 1,000,000 people
21 each year trying to illegally enter the United States,
22 according to the Congressional Research Service, the
23 net growth in the number of unauthorized aliens has
24 increased by approximately 500,000 each year. The
25 Southwest border accounts for approximately 94
26 percent of all migrant apprehensions each year. Cur-

1 rently, there are an estimated 11,000,000 unauthor-
2 ized aliens in the United States.

3 (3) The border region is also a major corridor
4 for the shipment of drugs. According to the El Paso
5 Intelligence Center, 65 percent of the narcotics that
6 are sold in the markets of the United States enter
7 the country through the Southwest border.

8 (4) Border communities continue to incur sig-
9 nificant costs due to the lack of adequate border se-
10 curity. A 2001 study by the United States-Mexico
11 Border Counties Coalition found that law enforce-
12 ment and criminal justice expenses associated with
13 illegal immigration exceed \$89,000,000 annually for
14 the Southwest border counties.

15 (5) In August 2005, the States of New Mexico
16 and Arizona declared states of emergency in order to
17 provide local law enforcement immediate assistance
18 in addressing criminal activity along the Southwest
19 border.

20 (6) While the Federal Government provides
21 States and localities assistance in covering costs re-
22 lated to the detention of certain criminal aliens and
23 the prosecution of Federal drug cases, local law en-
24 forcement along the border are provided no assist-
25 ance in covering such expenses and must use their

1 limited resources to combat drug trafficking, human
2 smuggling, kidnappings, the destruction of private
3 property, and other border-related crimes.

4 (7) The United States shares 5,525 miles of
5 border with Canada and 1,989 miles with Mexico.
6 Many of the local law enforcement agencies located
7 along the border are small, rural departments
8 charged with patrolling large areas of land. Counties
9 along the Southwest United States-Mexico border
10 are some of the poorest in the country and lack the
11 financial resources to cover the additional costs asso-
12 ciated with illegal immigration, drug trafficking, and
13 other border-related crimes.

14 (8) Federal assistance is required to help local
15 law enforcement operating along the border address
16 the unique challenges that arise as a result of their
17 proximity to an international border and the lack of
18 overall border security in the region

19 **SEC. 203. BORDER RELIEF GRANT PROGRAM.**

20 (a) GRANTS AUTHORIZED.—

21 (1) IN GENERAL.—The Secretary is authorized
22 to award grants, subject to the availability of appro-
23 priations, to an eligible law enforcement agency to
24 provide assistance to such agency to address—

1 (A) criminal activity that occurs in the ju-
2 risdiction of such agency by virtue of such
3 agency's proximity to the United States border;
4 and

5 (B) the impact of any lack of security
6 along the United States border.

7 (2) DURATION.—Grants may be awarded under
8 this subsection during fiscal years 2007 through
9 2011.

10 (3) COMPETITIVE BASIS.—The Secretary shall
11 award grants under this subsection on a competitive
12 basis, except that the Secretary shall give priority to
13 applications from any eligible law enforcement agen-
14 cy serving a community—

15 (A) with a population of less than 50,000;
16 and

17 (B) located no more than 100 miles from
18 a United States border with—

19 (i) Canada; or

20 (ii) Mexico.

21 (b) USE OF FUNDS.—Grants awarded pursuant to
22 subsection (a) may only be used to provide additional re-
23 sources for an eligible law enforcement agency to address
24 criminal activity occurring along any such border, includ-
25 ing—

- 1 (1) to obtain equipment;
- 2 (2) to hire additional personnel;
- 3 (3) to upgrade and maintain law enforcement
- 4 technology;
- 5 (4) to cover operational costs, including over-
- 6 time and transportation costs; and
- 7 (5) such other resources as are available to as-
- 8 sist that agency.

9 (c) APPLICATION.—

10 (1) IN GENERAL.—Each eligible law enforce-
11 ment agency seeking a grant under this section shall
12 submit an application to the Secretary at such time,
13 in such manner, and accompanied by such informa-
14 tion as the Secretary may reasonably require.

15 (2) CONTENTS.—Each application submitted
16 pursuant to paragraph (1) shall—

17 (A) describe the activities for which assist-
18 ance under this section is sought; and

19 (B) provide such additional assurances as
20 the Secretary determines to be essential to en-
21 sure compliance with the requirements of this
22 section.

23 (d) DEFINITIONS.—In this section:

1 (1) ELIGIBLE LAW ENFORCEMENT AGENCY.—

2 The term “eligible law enforcement agency” means
3 a tribal, State, or local law enforcement agency—

4 (A) located in a county no more than 100
5 miles from a United States border with—

6 (i) Canada; or

7 (ii) Mexico; or

8 (B) located in a county more than 100
9 miles from any such border, but where such
10 county has been certified by the Secretary as a
11 High Impact Area.

12 (2) HIGH IMPACT AREA.—The term “High Im-
13 pact Area” means any county designated by the Sec-
14 retary as such, taking into consideration—

15 (A) whether local law enforcement agencies
16 in that county have the resources to protect the
17 lives, property, safety, or welfare of the resi-
18 dents of that county;

19 (B) the relationship between any lack of
20 security along the United States border and the
21 rise, if any, of criminal activity in that county;
22 and

23 (C) any other unique challenges that local
24 law enforcement face due to a lack of security
25 along the United States border.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There are authorized to be
 3 appropriated \$50,000,000 for each of fiscal years
 4 2007 through 2011 to carry out the provisions of
 5 this section.

6 (2) DIVISION OF AUTHORIZED FUNDS.—Of the
 7 amounts authorized under paragraph (1)—

8 (A) $\frac{2}{3}$ shall be set aside for eligible law en-
 9 forcement agencies located in the 6 States with
 10 the largest number of undocumented alien ap-
 11 prehensions; and

12 (B) $\frac{1}{3}$ shall be set aside for areas des-
 13 igned as a High Impact Area under sub-
 14 section (d).

15 (f) SUPPLEMENT NOT SUPPLANT.—Amounts appro-
 16 priated for grants under this section shall be used to sup-
 17 plement and not supplant other State and local public
 18 funds obligated for the purposes provided under this title.

19 **SEC. 204. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.**

20 Nothing in this subtitle shall be construed to author-
 21 ize State or local law enforcement agencies or their officers
 22 to exercise Federal immigration law enforcement author-
 23 ity.

Subtitle B—Additional Law
Enforcement Relief

SEC. 211. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

- (1) indigent defense;
- (2) criminal prosecution;
- (3) autopsies;
- (4) translators and interpreters; and
- (5) court costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—

There are authorized to be appropriated \$400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section

241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

“(5) There are authorized to be appropriated to carry this subsection—

“(A) such sums as may be necessary for fiscal year 2007;

1 “(B) \$750,000,000 for fiscal year 2008;

2 “(C) \$850,000,000 for fiscal year 2009;

3 and

4 “(D) \$950,000,000 for each of the fiscal
5 years 2010 through 2012.”.

6 (c) TECHNICAL AMENDMENT.—Section 501 of the
7 Immigration Reform and Control Act of 1986 (8 U.S.C.
8 1365) is amended by striking “Attorney General” each
9 place it appears and inserting “Secretary of Homeland Se-
10 curity”.

11 **SEC. 212. TRANSPORTATION AND PROCESSING OF ILLEGAL**
12 **ALIENS APPREHENDED BY STATE AND LOCAL**
13 **LAW ENFORCEMENT OFFICERS.**

14 (a) IN GENERAL.—The Secretary shall provide suffi-
15 cient transportation and officers to take illegal aliens ap-
16 prehended by State and local law enforcement officers into
17 custody for processing at a detention facility operated by
18 the Department.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as may be
21 necessary for each of fiscal years 2007 through 2011 to
22 carry out this section.

23 **SEC. 213. EXPEDITED REMOVAL OF CRIMINAL ALIENS.**

24 (a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is
25 amended—

1 (1) by striking the section heading and insert-
 2 ing “**EXPEDITED REMOVAL OF CRIMINAL**
 3 **ALIENS**”;

4 (2) in subsection (a), by striking the subsection
 5 heading and inserting: “**EXPEDITED REMOVAL**
 6 **FROM CORRECTIONAL FACILITIES.—**”;

7 (3) in subsection (b), by striking the subsection
 8 heading and inserting: “**REMOVAL OF CRIMINAL**
 9 **ALIENS.—**”;

10 (4) in subsection (b), by striking paragraphs
 11 (1) and (2) and inserting the following:

12 “(1) **IN GENERAL.—**The Secretary of Homeland
 13 Security may, in the case of an alien described in
 14 paragraph (2), determine the deportability of such
 15 alien and issue an order of removal pursuant to the
 16 procedures set forth in this subsection or section
 17 240.

18 “(2) **ALIENS DESCRIBED.—**An alien is de-
 19 scribed in this paragraph if the alien—

20 “(A) has not been lawfully admitted to the
 21 United States for permanent residence; and

22 “(B) was convicted of any criminal offense
 23 described in subparagraph (A)(iii), (C), or (D)
 24 of section 237(a)(2).”;

(5) in the subsection (c) that relates to presumption of deportability, by striking “convicted of an aggravated felony” and inserting “described in subsection (b)(2)”;

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking “, who is deportable under this Act,”.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking “Attorney General” and inserting “Secretary of Homeland Security” each place it appears; and

(B) by adding at the end the following new subclause:

“(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into

1 the United States, and who is appre-
2 hended within 100 miles of an inter-
3 national land border of the United
4 States and within 14 days of entry.”.

5 (2) EXCEPTION.—Section 235(b)(1)(F) (8
6 U.S.C. 1225(b)(1)(F)) is amended to read as fol-
7 lows:

8 “(F) EXCEPTION.—Subparagraph (A)
9 shall not apply to an alien—

10 “(i) who is a native or citizen of a
11 country in the Western Hemisphere with
12 whose government the United States does
13 not have full diplomatic relations; and

14 “(ii) who—

15 “(I) arrives by aircraft at a port
16 of entry; or

17 “(II) is present in the United
18 States and arrived in any manner at
19 or between a port of entry.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on the date of the enactment
22 of this Act and shall apply to all aliens apprehended or
23 convicted on or after such date.

1 **SEC. 214. INCREASE OF FEDERAL DETENTION SPACE AND**
2 **THE UTILIZATION OF FACILITIES IDENTIFIED**
3 **FOR CLOSURE AS A RESULT OF THE DE-**
4 **FENSE BASE CLOSURE REALIGNMENT ACT**
5 **OF 1990.**

6 (a) CONSTRUCTION OR ACQUISITION OF DETENTION
7 FACILITIES.—

8 (1) IN GENERAL.—The Secretary shall con-
9 struct or acquire, in addition to existing facilities for
10 the detention of aliens, at least 20 detention facili-
11 ties in the United States that have the capacity to
12 detain a combined total of not less than 20,000 indi-
13 viduals at any time for aliens detained pending re-
14 moval or a decision on removal of such aliens from
15 the United States subject to available appropria-
16 tions.

17 (b) CONSTRUCTION OF OR ACQUISITION OF DETEN-
18 TION FACILITIES.—

19 (1) REQUIREMENT TO CONSTRUCT OR AC-
20 QUIRE.—The Secretary shall construct or acquire
21 additional detention facilities in the United States to
22 accommodate the detention beds required by section
23 5204(a) of the Intelligence Reform and Terrorism
24 Protection Act of 2004, as amended by subsection
25 (a), subject to available appropriations.

1 (2) USE OF ALTERNATE DETENTION FACILI-
2 TIES.—Subject to the availability of appropriations,
3 the Secretary shall fully utilize all possible options to
4 cost effectively increase available detention capac-
5 ities, and shall utilize detention facilities that are
6 owned and operated by the Federal Government if
7 the use of such facilities is cost effective.

8 (3) USE OF INSTALLATIONS UNDER BASE CLO-
9 SURE LAWS.—In acquiring additional detention fa-
10 cilities under this subsection, the Secretary shall
11 consider the transfer of appropriate portions of mili-
12 tary installations approved for closure or realign-
13 ment under the Defense Base Closure and Realign-
14 ment Act of 1990 (part A of title XXIX of Public
15 Law 101–510; 10 U.S.C. 2687 note) for use in ac-
16 cordance with subsection (a).

17 (4) DETERMINATION OF LOCATION.—The loca-
18 tion of any detention facility constructed or acquired
19 in accordance with this subsection shall be deter-
20 mined, with the concurrence of the Secretary, by the
21 senior officer responsible for Detention and Removal
22 Operations in the Department. The detention facili-
23 ties shall be located so as to enable the officers and
24 employees of the Department to increase to the max-

1 imum extent practicable the annual rate and level of
2 removals of illegal aliens from the United States.

3 (c) ANNUAL REPORT TO CONGRESS.—Not later than
4 1 year after the date of the enactment of this Act, and
5 annually thereafter, in consultation with the heads of
6 other appropriate Federal agencies, the Secretary shall
7 submit to Congress an assessment of the additional deten-
8 tion facilities and bed space needed to detain unlawful
9 aliens apprehended at United States ports of entry or
10 along the international land borders of the United States.

11 (d) TECHNICAL AND CONFORMING AMENDMENT.—
12 Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by
13 striking “may expend” and inserting “shall expend”.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated such sums as may be
16 necessary to carry out this section.

17 **SEC. 215. NORTHERN BORDER PROSECUTION INITIATIVE.**

18 (a) INITIATIVE REQUIRED.—

19 (1) IN GENERAL.—From amounts made avail-
20 able to carry out this section, the Attorney General,
21 acting through the Director of the Bureau of Justice
22 Assistance of the Office of Justice Programs, shall
23 establish and carry out a program, to be known as
24 the Northern Border Prosecution Initiative, to pro-
25 vide funds to reimburse eligible northern border en-

1 tities for costs incurred by those entities for han-
 2 dling case dispositions of criminal cases that are fed-
 3 erally initiated but federally declined-referred.

4 (2) RELATION WITH SOUTHWESTERN BORDER
 5 PROSECUTION INITIATIVE.—The program estab-
 6 lished in paragraph (1) shall—

7 (A) be modeled after the Southwestern
 8 Border Prosecution Initiative; and

9 (B) serve as a partner program to that ini-
 10 tiative to reimburse local jurisdictions for proc-
 11 essing Federal cases.

12 (b) PROVISION AND ALLOCATION OF FUNDS.—
 13 Funds provided under the program established in sub-
 14 section (a) shall be—

15 (1) provided in the form of direct reimburse-
 16 ments; and

17 (2) allocated in a manner consistent with the
 18 manner under which funds are allocated under the
 19 Southwestern Border Prosecution Initiative.

20 (c) USE OF FUNDS.—Funds provided to an eligible
 21 northern border entity under this section may be used by
 22 the entity for any lawful purpose, including:

23 (1) prosecution and related costs;

24 (2) court costs;

25 (3) costs of courtroom technology;

- 1 (4) costs of constructing holding spaces;
- 2 (5) costs of administrative staff;
- 3 (6) costs of defense counsel for indigent defend-
- 4 ants; and
- 5 (7) detention costs, including pretrial and
- 6 posttrial detention.

7 (d) DEFINITIONS.—In this section:

8 (1) CASE DISPOSITION.—The term “case dis-

9 position”—

10 (A) for purposes of the Northern Border

11 Prosecution Initiative, refers to the time be-

12 tween the arrest of a suspect and the resolution

13 of the criminal charges through a county or

14 State judicial or prosecutorial process; and

15 (B) does not include incarceration time for

16 sentenced offenders or time spent by prosecu-

17 tors on judicial appeals.

18 (2) ELIGIBLE NORTHERN BORDER ENTITY.—

19 The term “eligible northern border entity” means—

20 (A) the States of Alaska, Idaho, Maine,

21 Michigan, Minnesota, Montana, New Hamp-

22 shire, New York, North Dakota, Ohio, Pennsyl-

23 vania, Vermont, Washington, and Wisconsin; or

24 (B) any unit of local government within a

25 State referred to in subparagraph (A).

1 (3) **FEDERALLY DECLINED-REFERRED.**—The
2 term “federally declined-referred”—

3 (A) means, with respect to a criminal case,
4 that a decision has been made in that case by
5 a United States Attorney or a Federal law en-
6 forcement agency during a Federal investiga-
7 tion to no longer pursue Federal criminal
8 charges against a defendant and to refer such
9 investigation to a State or local jurisdiction for
10 possible prosecution; and

11 (B) includes a decision made on a case-by-
12 case basis as well as a decision made pursuant
13 to a general policy or practice or pursuant to
14 prosecutorial discretion.

15 (4) **FEDERALLY INITIATED.**—The term “feder-
16 ally initiated” means, with respect to a criminal
17 case, that the case results from a criminal investiga-
18 tion or an arrest involving Federal law enforcement
19 authorities for a potential violation of Federal crimi-
20 nal law, including investigations resulting from
21 multi-jurisdictional task forces.

22 (e) **AUTHORIZATION OF APPROPRIATIONS.**—There
23 are authorized to be appropriated to carry out this section
24 \$28,000,000 for fiscal year 2006 and such sums as may
25 be necessary for fiscal years thereafter.

1 **SEC. 216. SOUTHWEST BORDER PROSECUTION INITIATIVE.**

2 (a) REIMBURSEMENT TO STATE AND LOCAL PROS-
3 ECUTORS FOR PROSECUTING FEDERALLY INITIATED
4 DRUG CASES.—The Attorney General shall, subject to the
5 availability of appropriations, reimburse Southern Border
6 State and county prosecutors for prosecuting federally ini-
7 tiated and referred drug cases.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated \$50,000,000 for each
10 of the fiscal years 2007 through 2012 to carry out sub-
11 section (a).

12 **SEC. 217. LAW ENFORCEMENT AUTHORITY OF STATES AND**
13 **POLITICAL SUBDIVISIONS AND TRANSFER TO**
14 **FEDERAL CUSTODY.**

15 (a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.)
16 is amended by adding after section 240C the following:
17 **“SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES**
18 **AND POLITICAL SUBDIVISIONS AND TRANS-**
19 **FER OF ALIENS TO FEDERAL CUSTODY.**

20 “(a) AUTHORITY.—Notwithstanding any other provi-
21 sion of law, law enforcement personnel of a State, or a
22 political subdivision of a State, have the inherent authority
23 of a sovereign entity to investigate, apprehend, arrest, de-
24 tain, or transfer to Federal custody (including trans-
25 porting across State lines to detention centers) an alien
26 for the purpose of assisting in the enforcement of the

1 criminal provisions of the immigration laws of the United
2 States in the normal course of carrying out the law en-
3 forcement duties of such personnel. This State authority
4 has never been displaced or preempted by a Federal law.

5 “(b) CONSTRUCTION.—Nothing in this section shall
6 be construed to require law enforcement personnel of a
7 State or a political subdivision to assist in the enforcement
8 of the immigration laws of the United States.

9 “(c) TRANSFER.—If the head of a law enforcement
10 entity of a State (or, if appropriate, a political subdivision
11 of the State) exercising authority with respect to the ap-
12 prehension or arrest of an alien submits a request to the
13 Secretary of Homeland Security that the alien be taken
14 into Federal custody, the Secretary of Homeland Secu-
15 rity—

16 “(1) shall—

17 “(A) deem the request to include the in-
18 quiry to verify immigration status described in
19 section 642(c) of the Illegal Immigration Re-
20 form and Immigrant Responsibility Act of 1996
21 (8 U.S.C. 1373(c)), and expeditiously inform
22 the requesting entity whether such individual is
23 an alien lawfully admitted to the United States
24 or is otherwise lawfully present in the United
25 States; and

1 “(B) if the individual is an alien who is not
 2 lawfully admitted to the United States or other-
 3 wise is not lawfully present in the United
 4 States—

5 “(i) take the illegal alien into the cus-
 6 tody of the Federal Government not later
 7 than 72 hours after—

8 “(I) the conclusion of the State
 9 charging process or dismissal process;
 10 or

11 “(II) the illegal alien is appre-
 12 hended, if no State charging or dis-
 13 missal process is required; or

14 “(ii) request that the relevant State or
 15 local law enforcement agency temporarily
 16 detain or transport the alien to a location
 17 for transfer to Federal custody; and

18 “(2) shall designate at least 1 Federal, State,
 19 or local prison or jail or a private contracted prison
 20 or detention facility within each State as the central
 21 facility for that State to transfer custody of aliens
 22 to the Department of Homeland Security.

23 “(d) REIMBURSEMENT.—

24 “(1) IN GENERAL.—The Secretary of Homeland
 25 Security shall reimburse a State, or a political sub-

1 division of a State, for expenses, as verified by the
 2 Secretary, incurred by the State or political subdivi-
 3 sion in the detention and transportation of an alien
 4 as described in subparagraphs (A) and (B) of sub-
 5 section (c)(1).

6 “(2) COST COMPUTATION.—Compensation pro-
 7 vided for costs incurred under subparagraphs (A)
 8 and (B) of subsection (c)(1) shall be the sum of—

9 “(A) the product of—

10 “(i) the average daily cost of incarceration
 11 ation of a prisoner in the relevant State, as
 12 determined by the chief executive officer of
 13 a State (or, as appropriate, a political sub-
 14 division of the State); multiplied by

15 “(ii) the number of days that the alien
 16 was in the custody of the State or political
 17 subdivision;

18 “(B) the cost of transporting the alien
 19 from the point of apprehension or arrest to the
 20 location of detention, and if the location of de-
 21 tention and of custody transfer are different, to
 22 the custody transfer point; and

23 “(C) the cost of uncompensated emergency
 24 medical care provided to a detained alien during
 25 the period between the time of transmittal of

1 the request described in subsection (c) and the
2 time of transfer into Federal custody.

3 “(e) REQUIREMENT FOR APPROPRIATE SECURITY.—

4 The Secretary of Homeland Security shall ensure that—

5 “(1) aliens incarcerated in a Federal facility
6 pursuant to this section are held in facilities which
7 provide an appropriate level of security; and

8 “(2) aliens detained solely for civil violations of
9 Federal immigration law are separated within a fa-
10 cility or facilities, if practicable.

11 “(f) REQUIREMENT FOR SCHEDULE.—In carrying
12 out this section, the Secretary of Homeland Security shall
13 establish a regular circuit and schedule for the prompt
14 transportation of apprehended aliens from the custody of
15 those States, and political subdivisions of States, which
16 routinely submit requests described in subsection (c), into
17 Federal custody.

18 “(g) AUTHORITY FOR CONTRACTS.—

19 “(1) IN GENERAL.—The Secretary of Homeland
20 Security may enter into contracts or cooperative
21 agreements with appropriate State and local law en-
22 forcement and detention agencies to implement this
23 section.

24 “(2) DETERMINATION BY SECRETARY.—Before
25 entering into a contract or cooperative agreement

1 with a State or political subdivision of a State under
2 paragraph (1), the Secretary shall determine wheth-
3 er the State, or if appropriate, the political subdivi-
4 sion in which the agencies are located, has in place
5 any formal or informal policy that violates section
6 642 of the Illegal Immigration Reform and Immig-
7 grant Responsibility Act of 1996 (8 U.S.C. 1373).
8 The Secretary shall not allocate any of the funds
9 made available under this section to any State or po-
10 litical subdivision that has in place a policy that vio-
11 lates such section.”.

12 (b) AUTHORIZATION OF APPROPRIATIONS FOR THE
13 DETENTION AND TRANSPORTATION TO FEDERAL CUS-
14 TODY OF ALIENS NOT LAWFULLY PRESENT.—There are
15 authorized to be appropriated \$850,000,000 for fiscal year
16 2007 and for each subsequent fiscal year for the detention
17 and removal of aliens not lawfully present in the United
18 States under the Immigration and Nationality Act (8
19 U.S.C. 1101 et. seq.).

1 **TITLE III—BORDER INFRA-**
2 **STRUCTURE AND TECH-**
3 **NOLOGY MODERNIZATION**

4 **Subtitle A—Border Infrastructure**
5 **and Technology Modernization Act**

6 **SEC. 301. SHORT TITLE.**

7 This subtitle may be cited as the “Border Infrastruc-
8 ture and Technology Modernization Act”.

9 **SEC. 302. DEFINITIONS.**

10 In this subtitle:

11 (1) COMMISSIONER.—The term “Commis-
12 sioner” means the Commissioner of the Bureau of
13 Customs and Border Protection of the Department.

14 (2) MAQUILADORA.—The term “maquiladora”
15 means an entity located in Mexico that assembles
16 and produces goods from imported parts for export
17 to the United States.

18 (3) NORTHERN BORDER.—The term “northern
19 border” means the international border between the
20 United States and Canada.

21 (4) SOUTHERN BORDER.—The term “southern
22 border” means the international border between the
23 United States and Mexico.

1 **SEC. 303. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT**
2 **STUDY.**

3 (a) REQUIREMENT TO UPDATE.—Not later than
4 January 31 of each year, the Administrator of General
5 Services shall update the Port of Entry Infrastructure As-
6 sessment Study prepared by the Bureau of Customs and
7 Border Protection in accordance with the matter relating
8 to the ports of entry infrastructure assessment that is set
9 out in the joint explanatory statement in the conference
10 report accompanying H.R. 2490 of the 106th Congress,
11 1st session (House of Representatives Rep. No. 106–319,
12 on page 67) and submit such updated study to Congress.

13 (b) CONSULTATION.—In preparing the updated stud-
14 ies required in subsection (a), the Administrator of Gen-
15 eral Services shall consult with the Director of the Office
16 of Management and Budget, the Secretary, and the Com-
17 missioner.

18 (c) CONTENT.—Each updated study required in sub-
19 section (a) shall—

20 (1) identify port of entry infrastructure and
21 technology improvement projects that would enhance
22 border security and facilitate the flow of legitimate
23 commerce if implemented;

24 (2) include the projects identified in the Na-
25 tional Land Border Security Plan required by sec-
26 tion 304; and

1 (3) prioritize the projects described in para-
2 graphs (1) and (2) based on the ability of a project
3 to—

4 (A) fulfill immediate security requirements;
5 and

6 (B) facilitate trade across the borders of
7 the United States.

8 (d) PROJECT IMPLEMENTATION.—The Commissioner
9 shall implement the infrastructure and technology im-
10 provement projects described in subsection (c) in the order
11 of priority assigned to each project under subsection
12 (c)(3).

13 (e) DIVERGENCE FROM PRIORITIES.—The Commis-
14 sioner may diverge from the priority order if the Commis-
15 sioner determines that significantly changed cir-
16 cumstances, such as immediate security needs or changes
17 in infrastructure in Mexico or Canada, compellingly alter
18 the need for a project in the United States.

19 **SEC. 304. NATIONAL LAND BORDER SECURITY PLAN.**

20 (a) IN GENERAL.—Not later than 1 year after the
21 date of the enactment of this Act, and annually thereafter,
22 the Secretary, after consultation with representatives of
23 Federal, State, and local law enforcement agencies and
24 private entities that are involved in international trade
25 across the northern border or the southern border, shall

1 submit a National Land Border Security Plan to Con-
 2 gress.

3 (b) VULNERABILITY ASSESSMENT.—

4 (1) IN GENERAL.—The plan required in sub-
 5 section (a) shall include a vulnerability assessment
 6 of each port of entry located on the northern border
 7 or the southern border.

8 (2) PORT SECURITY COORDINATORS.—The Sec-
 9 retary may establish 1 or more port security coordi-
 10 nators at each port of entry located on the northern
 11 border or the southern border—

12 (A) to assist in conducting a vulnerability
 13 assessment at such port; and

14 (B) to provide other assistance with the
 15 preparation of the plan required in subsection
 16 (a).

17 **SEC. 305. EXPANSION OF COMMERCE SECURITY PRO-**
 18 **GRAMS.**

19 (a) CUSTOMS-TRADE PARTNERSHIP AGAINST TER-
 20 RORISM.—

21 (1) IN GENERAL.—Not later than 180 days
 22 after the date of enactment of this Act, the Commis-
 23 sioner, in consultation with the Secretary, shall de-
 24 velop a plan to expand the size and scope, including
 25 personnel, of the Customs-Trade Partnership

1 Against Terrorism programs along the northern bor-
 2 der and southern border, including—

3 (A) the Business Anti-Smuggling Coali-
 4 tion;

5 (B) the Carrier Initiative Program;

6 (C) the Americas Counter Smuggling Ini-
 7 tiative;

8 (D) the Container Security Initiative;

9 (E) the Free and Secure Trade Initiative;

10 and

11 (F) other Industry Partnership Programs
 12 administered by the Commissioner.

13 (2) SOUTHERN BORDER DEMONSTRATION PRO-
 14 GRAM.—Not later than 180 days after the date of
 15 enactment of this Act, the Commissioner shall imple-
 16 ment, on a demonstration basis, at least 1 Customs–
 17 Trade Partnership Against Terrorism program along
 18 the southern border, which has been successfully im-
 19 plemented along the northern border.

20 (b) MAQUILADORA DEMONSTRATION PROGRAM.—

21 Not later than 180 days after the date of enactment of
 22 this Act, the Commissioner shall establish a demonstration
 23 program to develop a cooperative trade security system to
 24 improve supply chain security.

1 **SEC. 306. PORT OF ENTRY TECHNOLOGY DEMONSTRATION**
2 **PROGRAM.**

3 (a) ESTABLISHMENT.—The Secretary shall carry out
4 a technology demonstration program to—

5 (1) test and evaluate new port of entry tech-
6 nologies;

7 (2) refine port of entry technologies and oper-
8 ational concepts; and

9 (3) train personnel under realistic conditions.

10 (b) TECHNOLOGY AND FACILITIES.—

11 (1) TECHNOLOGY TESTING.—Under the tech-
12 nology demonstration program, the Secretary shall
13 test technologies that enhance port of entry oper-
14 ations, including operations related to—

15 (A) inspections;

16 (B) communications;

17 (C) port tracking;

18 (D) identification of persons and cargo;

19 (E) sensory devices;

20 (F) personal detection;

21 (G) decision support; and

22 (H) the detection and identification of
23 weapons of mass destruction.

24 (2) DEVELOPMENT OF FACILITIES.—At a dem-
25 onstration site selected pursuant to subsection
26 (c)(2), the Secretary shall develop facilities to pro-

1 vide appropriate training to law enforcement per-
2 sonnel who have responsibility for border security,
3 including—

4 (A) cross-training among agencies;

5 (B) advanced law enforcement training;

6 and

7 (C) equipment orientation.

8 (c) DEMONSTRATION SITES.—

9 (1) NUMBER.—The Secretary shall carry out
10 the demonstration program at not less than 3 sites
11 and not more than 5 sites.

12 (2) SELECTION CRITERIA.—To ensure that at
13 least 1 of the facilities selected as a port of entry
14 demonstration site for the demonstration program
15 has the most up-to-date design, contains sufficient
16 space to conduct the demonstration program, has a
17 traffic volume low enough to easily incorporate new
18 technologies without interrupting normal processing
19 activity, and can efficiently carry out demonstration
20 and port of entry operations, at least 1 port of entry
21 selected as a demonstration site shall—

22 (A) have been established not more than
23 15 years before the date of the enactment of
24 this Act;

1 (B) consist of not less than 65 acres, with
2 the possibility of expansion to not less than 25
3 adjacent acres; and

4 (C) have serviced an average of not more
5 than 50,000 vehicles per month during the 1-
6 year period ending on the date of the enactment
7 of this Act.

8 (d) RELATIONSHIP WITH OTHER AGENCIES.—The
9 Secretary shall permit personnel from an appropriate Fed-
10 eral or State agency to utilize a demonstration site de-
11 scribed in subsection (c) to test technologies that enhance
12 port of entry operations, including technologies described
13 in subparagraphs (A) through (H) of subsection (b)(1).

14 (e) REPORT.—

15 (1) REQUIREMENT.—Not later than 1 year
16 after the date of the enactment of this Act, and an-
17 nually thereafter, the Secretary shall submit to Con-
18 gress a report on the activities carried out at each
19 demonstration site under the technology demonstra-
20 tion program established under this section.

21 (2) CONTENT.—The report submitted under
22 paragraph (1) shall include an assessment by the
23 Secretary of the feasibility of incorporating any dem-
24 onstrated technology for use throughout the Bureau
25 of Customs and Border Protection.

1 **SEC. 307. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—In addition to any funds other-
3 wise available, there are authorized to be appropriated—

4 (1) such sums as may be necessary for the fis-
5 cal years 2007 through 2011 to carry out the provi-
6 sions of section 303(a);

7 (2) to carry out section 303(d)—

8 (A) \$100,000,000 for each of the fiscal
9 years 2007 through 2011; and

10 (B) such sums as may be necessary in any
11 succeeding fiscal year;

12 (3) to carry out section 305(a)—

13 (A) \$30,000,000 for fiscal year 2007, of
14 which \$5,000,000 shall be made available to
15 fund the demonstration project established in
16 section 306(a)(2); and

17 (B) such sums as may be necessary for the
18 fiscal years 2008 through 2011;

19 (4) to carry out section 305(b)—

20 (A) \$5,000,000 for fiscal year 2007; and

21 (B) such sums as may be necessary for the
22 fiscal years 2008 through 2011; and

23 (5) to carry out section 306, provided that not
24 more than \$10,000,000 may be expended for tech-
25 nology demonstration program activities at any 1
26 port of entry demonstration site in any fiscal year—

1 (A) \$50,000,000 for fiscal year 2007; and

2 (B) such sums as may be necessary for
3 each of the fiscal years 2008 through 2011.

4 (b) INTERNATIONAL AGREEMENTS.—Amounts au-
5 thorized to be appropriated under this subtitle may be
6 used for the implementation of projects described in the
7 Declaration on Embracing Technology and Cooperation to
8 Promote the Secure and Efficient Flow of People and
9 Commerce across our Shared Border between the United
10 States and Mexico, agreed to March 22, 2002, Monterrey,
11 Mexico (commonly known as the Border Partnership Ac-
12 tion Plan) or the Smart Border Declaration between the
13 United States and Canada, agreed to December 12, 2001,
14 Ottawa, Canada that are consistent with the provisions of
15 this subtitle.

16 **Subtitle B—Additional** 17 **Infrastructure Elements**

18 **SEC. 311. SURVEILLANCE TECHNOLOGIES PROGRAMS.**

19 (a) AERIAL SURVEILLANCE PROGRAM.—

20 (1) IN GENERAL.—In conjunction with the bor-
21 der surveillance plan developed under section 5201
22 of the Intelligence Reform and Terrorism Prevention
23 Act of 2004 (Public Law 108–458; 8 U.S.C. 1701
24 note), the Secretary, not later than 90 days after the
25 date of enactment of this Act, shall develop and im-

1 plement a program to fully integrate and utilize aer-
2 ial surveillance technologies, including unmanned
3 aerial vehicles, to enhance the security of the inter-
4 national border between the United States and Can-
5 ada and the international border between the United
6 States and Mexico. The goal of the program shall be
7 to ensure continuous monitoring of each mile of each
8 such border.

9 (2) ASSESSMENT AND CONSULTATION REQUIRE-
10 MENTS.—In developing the program under this sub-
11 section, the Secretary shall—

12 (A) consider current and proposed aerial
13 surveillance technologies;

14 (B) assess the feasibility and advisability
15 of utilizing such technologies to address border
16 threats, including an assessment of the tech-
17 nologies considered best suited to address re-
18 spective threats;

19 (C) consult with the Secretary of Defense
20 regarding any technologies or equipment, which
21 the Secretary may deploy along an international
22 border of the United States; and

23 (D) consult with the Administrator of the
24 Federal Aviation Administration regarding safe-
25 ty, airspace coordination and regulation, and

1 any other issues necessary for implementation
2 of the program.

3 (3) ADDITIONAL REQUIREMENTS.—

4 (A) IN GENERAL.—The program developed
5 under this subsection shall include the use of a
6 variety of aerial surveillance technologies in a
7 variety of topographies and areas, including
8 populated and unpopulated areas located on or
9 near an international border of the United
10 States, in order to evaluate, for a range of cir-
11 cumstances—

12 (i) the significance of previous experi-
13 ences with such technologies in border se-
14 curity or critical infrastructure protection;

15 (ii) the cost and effectiveness of var-
16 ious technologies for border security, in-
17 cluding varying levels of technical com-
18 plexity; and

19 (iii) liability, safety, and privacy con-
20 cerns relating to the utilization of such
21 technologies for border security.

22 (4) CONTINUED USE OF AERIAL SURVEILLANCE
23 TECHNOLOGIES.—The Secretary may continue the
24 operation of aerial surveillance technologies while as-

1 sessing the effectiveness of the utilization of such
2 technologies.

3 (5) REPORT TO CONGRESS.—Not later than
4 180 days after implementing the program under this
5 subsection, the Secretary shall submit a report to
6 Congress regarding the program developed under
7 this subsection. The Secretary shall include in the
8 report a description of the program together with
9 such recommendations as the Secretary finds appro-
10 prium for enhancing the program.

11 (6) AUTHORIZATION OF APPROPRIATIONS.—
12 There are authorized to be appropriated such sums
13 as may be necessary to carry out this subsection.

14 (b) INTEGRATED AND AUTOMATED SURVEILLANCE
15 PROGRAM.—

16 (1) REQUIREMENT FOR PROGRAM.—Subject to
17 the availability of appropriations, the Secretary shall
18 establish a program to procure additional unmanned
19 aerial vehicles, cameras, poles, sensors, satellites,
20 radar coverage, and other technologies necessary to
21 achieve operational control of the international bor-
22 ders of the United States and to establish a security
23 perimeter known as a “virtual fence” along such
24 international borders to provide a barrier to illegal

1 immigration. Such program shall be known as the
2 Integrated and Automated Surveillance Program.

3 (2) PROGRAM COMPONENTS.—The Secretary
4 shall ensure, to the maximum extent feasible, the In-
5 tegrated and Automated Surveillance Program is
6 carried out in a manner that—

7 (A) the technologies utilized in the Pro-
8 gram are integrated and function cohesively in
9 an automated fashion, including the integration
10 of motion sensor alerts and cameras, whereby a
11 sensor alert automatically activates a cor-
12 responding camera to pan and tilt in the direc-
13 tion of the triggered sensor;

14 (B) cameras utilized in the Program do
15 not have to be manually operated;

16 (C) such camera views and positions are
17 not fixed;

18 (D) surveillance video taken by such cam-
19 eras can be viewed at multiple designated com-
20 munications centers;

21 (E) a standard process is used to collect,
22 catalog, and report intrusion and response data
23 collected under the Program;

1 (F) future remote surveillance technology
2 investments and upgrades for the Program can
3 be integrated with existing systems;

4 (G) performance measures are developed
5 and applied that can evaluate whether the Pro-
6 gram is providing desired results and increasing
7 response effectiveness in monitoring and detect-
8 ing illegal intrusions along the international
9 borders of the United States;

10 (H) plans are developed under the Pro-
11 gram to streamline site selection, site valida-
12 tion, and environmental assessment processes to
13 minimize delays of installing surveillance tech-
14 nology infrastructure;

15 (I) standards are developed under the Pro-
16 gram to expand the shared use of existing pri-
17 vate and governmental structures to install re-
18 mote surveillance technology infrastructure
19 where possible; and

20 (J) standards are developed under the Pro-
21 gram to identify and deploy the use of non-
22 permanent or mobile surveillance platforms that
23 will increase the Secretary's mobility and ability
24 to identify illegal border intrusions.

1 (3) REPORT TO CONGRESS.—Not later than 1
2 year after the initial implementation of the Inte-
3 grated and Automated Surveillance Program, the
4 Secretary shall submit to Congress a report regard-
5 ing the Program. The Secretary shall include in the
6 report a description of the Program together with
7 any recommendation that the Secretary finds appro-
8 priate for enhancing the program.

9 (4) EVALUATION OF CONTRACTORS.—

10 (A) REQUIREMENT FOR STANDARDS.—The
11 Secretary shall develop appropriate standards
12 to evaluate the performance of any contractor
13 providing goods or services to carry out the In-
14 tegrated and Automated Surveillance Program.

15 (B) REVIEW BY THE INSPECTOR GEN-
16 ERAL.—The Inspector General of the Depart-
17 ment shall timely review each new contract re-
18 lated to the Program that has a value of more
19 than \$5,000,000, to determine whether such
20 contract fully complies with applicable cost re-
21 quirements, performance objectives, program
22 milestones, and schedules. The Inspector Gen-
23 eral shall report the findings of such review to
24 the Secretary in a timely manner. Not later
25 than 30 days after the date the Secretary re-

ceives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any the steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SEC. 312. BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term “protected land” means land under the jurisdiction of the Secretary concerned.

(2) SECRETARY CONCERNED.—The term “Secretary concerned” means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

1 (b) SUPPORT FOR BORDER SECURITY NEEDS.—

2 (1) IN GENERAL.—To gain operational control
3 over the international land borders of the United
4 States and to prevent the entry of terrorists, unlaw-
5 ful aliens, narcotics, and other contraband into the
6 United States, the Secretary, in cooperation with the
7 Secretary concerned, shall provide—

8 (A) increased Customs and Border Protec-
9 tion personnel to secure protected land along
10 the international land borders of the United
11 States;

12 (B) Federal land resource training for
13 Customs and Border Protection agents dedi-
14 cated to protected land; and

15 (C) Unmanned Aerial Vehicles, aerial as-
16 sets, Remote Video Surveillance camera sys-
17 tems, and sensors on protected land that is di-
18 rectly adjacent to the international land border
19 of the United States, with priority given to
20 units of the National Park System.

21 (2) COORDINATION.—In providing training for
22 Customs and Border Protection agents under para-
23 graph (1)(B), the Secretary shall coordinate with the
24 Secretary concerned to ensure that the training is
25 appropriate to the mission of the National Park

1 Service, the United States Fish and Wildlife Service,
2 the Forest Service, or the relevant agency of the De-
3 partment of the Interior or the Department of Agri-
4 culture to minimize the adverse impact on natural
5 and cultural resources from border protection activi-
6 ties.

7 (c) INVENTORY OF COSTS AND ACTIVITIES.—The
8 Secretary concerned shall develop and submit to the Sec-
9 retary an inventory of costs incurred by the Secretary con-
10 cerned relating to illegal border activity, including the cost
11 of equipment, training, recurring maintenance, construc-
12 tion of facilities, restoration of natural and cultural re-
13 sources, recapitalization of facilities, and operations.

14 (d) RECOMMENDATIONS.—The Secretary shall—

15 (1) develop joint recommendations with the Na-
16 tional Park Service, the United States Fish and
17 Wildlife Service, and the Forest Service for an ap-
18 propriate cost recovery mechanism relating to items
19 identified in subsection (c); and

20 (2) not later than March 31, 2007, submit to
21 the appropriate congressional committees (as defined
22 in section 2 of the Homeland Security Act of 2002
23 (6 U.S.C. 101)), including the Subcommittee on Na-
24 tional Parks of the Senate and the Subcommittee on
25 National Parks, Recreation and Public Lands of the

1 House of Representatives, the recommendations de-
2 veloped under paragraph (1).

3 (e) BORDER PROTECTION STRATEGY.—The Sec-
4 retary, the Secretary of the Interior, and the Secretary
5 of Agriculture shall jointly develop a border protection
6 strategy that supports the border security needs of the
7 United States in the manner that best protects—

8 (1) units of the National Park System;

9 (2) National Forest System land;

10 (3) land under the jurisdiction of the United
11 States Fish and Wildlife Service; and

12 (4) other relevant land under the jurisdiction of
13 the Department of the Interior or the Department
14 of Agriculture.

15 **SEC. 313. UNMANNED AERIAL VEHICLES.**

16 (a) UNMANNED AERIAL VEHICLES AND ASSOCIATED
17 INFRASTRUCTURE.—The Secretary shall acquire and
18 maintain MQ–9 unmanned aerial vehicles for use on the
19 border, including related equipment such as—

20 (1) additional sensors;

21 (2) critical spares;

22 (3) satellite command and control; and

23 (4) other necessary equipment for operational
24 support.

25 (b) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated to the Secretary to carry out sub-
3 section (a)—

4 (A) \$178,400,000 for fiscal year 2007; and

5 (B) \$276,000,000 for fiscal year 2008.

6 (2) AVAILABILITY OF FUNDS.—Amounts appro-
7 priated pursuant to paragraph (1) shall remain
8 available until expended.

○